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Editor - Rodney Smith, Professor of Australian Politics, University of Sydney



Special Issue:

Parliament as a Gendered Workplace



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AUSTRALASIAN PARLIAMENTARY REVIEW

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Table of Contents

From the Editor	5
<i>Rodney Smith</i>	
ARTICLES	7
Parliament as a Gendered Workplace: Introduction to this Special Issue	8
<i>Sonia Palmieri, Blair Williams and Marian Sawyer</i>	
Changing the Conditions Underpinning Gendered Entitlement in Parliament as a Workplace	20
<i>Chris Wallace</i>	
Improving Workplace Culture: Lessons from the Legal Profession	36
<i>Kieran Pender</i>	
Problematic Working Conditions for Female Political Staffers: What Can Be Done?*	54
<i>Maria Maley</i>	
The Missing Cohort: Women in Local Government*	70
<i>Andrea Carson, Gosia Mikolajczak and Leah Ruppanner</i>	
Essential Part of Life or Essentially Ignored? Combining Care Labour with Parliamentary Duties*	91
<i>Pia Rowe</i>	
Still Lacking Her Rights at Work: The Treatment of Women Politicians in the Australian Parliament and Print News Media*	110
<i>Carol Johnson and Blair Williams</i>	
‘Melodrama, Fisticuffs and Generally Aberrant Behaviour’: Gender, Norms of Behaviour and Workplace Culture in the New Zealand Parliament*	130
<i>Kerryn Baker</i>	

BOOK REVIEWS**148**

Corruption in High Places: The Key Witness in the Justice Murphy Scandal Gives His Side of the Story, by Clarrie Briese. Australia: Noble Books, 2021, pp. 416, Paperback RRP \$34.95 ISBN: 9780645010404

149

Rod Tiffen

The Brilliant Boy: Doc Evatt and the Great Australian Dissent, by Gideon Haigh. Sydney: Simon and Schuster, 2021, pp. 384, Hardcover RRP \$39.99 ISBN: 9781760856113

154

David Clune

* Indicates that the article has been double-blind reviewed.

From the Editor

Rodney Smith

Professor of Australian Politics, University of Sydney

Welcome to the Spring/Summer number of the *Australasian Parliamentary Review*. Unusually, at least in recent times, all the articles in this number of the journal are contributions to a special issue; in this case, one on 'Parliament as a Gendered Workplace'. Sonia Palmieri, Blair Williams and Marian Sawer, who brought together this collection of articles, explain the genesis and coverage of this special issue in their introductory article. Earlier drafts of the articles were presented at a July 2021 workshop co-sponsored by the Australian Political Studies Association and the Global Institute for Women and Leadership at the Australian National University. Five of the eight articles then went through the *Australasian Parliamentary Review's* normal refereeing process. Along with the other three articles, the articles were then edited and formatted for publication.

Taken together, these articles present an extensive analysis of the contemporary Australian Parliament as a gendered workplace, an analysis that incorporates the wider context of that workplace. The articles will undoubtedly be a 'go to' resource on the topic for future scholars wanting to understand the Australian Parliament's gender dynamics and crises during the last few years. More importantly, they contribute proposals for reform that practitioners could take up to help address the issues of gendered assault, harassment, bullying and unequal treatment on which the articles focus. These reform proposals are not solely directed at parliamentarians but include measures directed at other key political actors, such as news workers and party officials.

This issue of the *Australasian Parliamentary Review* continues its emphasis on providing scholarly and practitioner insights into contemporary debates and developments in and affecting parliaments throughout Australasia. In my time as editor, I have tried to strengthen that contemporary emphasis, balancing the need for timely articles with the need for articles that are peer-reviewed and authoritative. In this, I have been immensely helped by many different anonymous referees who have given their time and expertise to review papers, and by authors who have responded with good grace to suggested changes arising from the reviewing process. I have also been helped by our web publisher, Dan Brown, who has made the *Australasian Parliamentary Review's* transition from a paper-based journal to an established online journal a far easier process than it might have been.

This is my last issue as editor of the *Australasian Parliamentary Review*. My successor is Dr Sarah Moulds from Law at the University of South Australia. As many of you would know, Dr Moulds is an expert on Parliament, particularly on the roles of parliamentary committees in protecting rights, and on Parliament's engagement with the people. She is a leading figure in the International Parliamentary Engagement Network (IPEN). Among her other IPEN activities, Dr Moulds co-convened a major international online event on *Public Engagement and its Impact on Parliaments* in March this year, which was discussed in the Autumn/Winter 2021 issue of this journal. I am very confident that the *Australasian Parliamentary Review* will thrive under her editorship.

Articles

Parliament as a Gendered Workplace: Introduction to this Special Issue

Sonia Palmieri, Blair Williams and Marian Sawer

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In March 2021, there were mass demonstrations around Australia, protesting over the unsafe work conditions for women in parliamentary workplaces. Two developments provided the background to these protests. The first was the development over the past 20 years of new international standards for Parliament as a gendered workplace. Australia had signed up to these standards, for example at Inter-Parliamentary Union assemblies, but done little to implement them. The second development was the international #MeToo movement, which encouraged many women, including those in parliamentary workplaces, to speak out for the first time about workplace experiences, including sexual harassment and sexual assault. These two developments came together when Brittany Higgins, a former Liberal staffer in the Australian Parliament, spoke out in February 2021 about her experience of being allegedly raped in a ministerial office two years before and how this had been treated as a 'political problem' first and foremost. The bravery of her testimony prompted others also to speak. It triggered widespread anger that one of 'the most heavily guarded buildings in Australia' could be so unsafe for women who worked in it.

This special issue on Parliament as a gendered workplace had its genesis before the storm broke in 2021 and was a response to initial revelations in November 2020 about a toxic and sexist culture in ministerial offices ('Inside the Canberra Bubble', ABC Television). We made a successful application to the Australian Political Studies Association's workshop program in 2020 and the Global Institute for Women and Leadership (ANU) agreed to be a co-sponsor. The School of Politics and International

Relations at the ANU provided the administrative support and event co-ordination for the workshop held in July 2021. Due to the COVID pandemic, the workshop was in a hybrid format, with international and interstate participants presenting through video and Zoom. A number of the papers have been selected for this special issue, while others provided evidence that was drawn on for the workshop submission to the Independent Review into Commonwealth Parliamentary Workplaces (the Jenkins Review).¹

This Introductory article will begin by setting out the context of the workshop, its aims and how it went about achieving them, including the mix of practitioners and academic experts. It will then explain the genesis of the Code of Conduct adopted by the Workshop and the process used for arriving at it. It will then briefly introduce the themes of the papers in the special issue before making some concluding remarks on the trajectory of parliamentary reform in Australia.

THE POLITICAL CONTEXT

In March 2021, a perfect storm broke over the issue of women's safety in Parliament. Thousands demonstrated outside the Australian Parliament and around Australia. While those outside labelled Parliament a 'crime scene', inside the House of Representatives crossbenchers held up placards saying 'enough is enough'. This was not the first time in Australian political history that there had been revelations of sexism in the Australian Parliament. In 2012, Prime Minister Julia Gillard's 'sexism and misogyny speech' went viral around the world. In the intervening period women politicians had become more resolute in revealing their experience of the parliamentary workplace and a number, including Senator Penny Wong, Opposition Leader in the Senate, expressed regret that they had not publicly recognised and condemned such abuse much earlier: 'If I had my time again, I'd be dealing with it very differently. ... I think we should have called it out earlier'.²

¹ Australian Political Studies Association and Global Institute for Women's Leadership, Submission to the Independent Inquiry into Commonwealth Parliamentary Workplaces, 2021, published at: <https://humanrights.gov.au/have-your-say/independent-review-commonwealth-parliamentary-workplaces>.

² Senator Penny Wong, in 'Ms Represented', ABC Television, 2021.

In 2021, the Morrison Government responded to the perfect storm with a raft of internal inquiries, including a review by Stephanie Foster, Deputy Secretary of the Department of Prime Minister and Cabinet of the handling of serious incidents in the parliamentary workplace. Eventually, under increasing pressure, the Prime Minister also commissioned an Independent Inquiry into Commonwealth Parliamentary Workplaces to be conducted by the Sex Discrimination Commissioner, Kate Jenkins. Once assured of confidentiality, the Jenkins Inquiry was flooded with submissions by those who worked, or had worked, in Parliament. Legislation giving similar protection to that provided for private sessions of the Royal Commission into Institutional Responses to Child Sexual Abuse provided an exemption for Freedom of Information requests relating to submissions.

Some of those responsible for private submissions to the Jenkins Review also presented at our workshop, including the author of the submission from the Elizabeth Reid Network, based on responses to their workplace experience survey. This Network, which has some 1400 members, was established in 2016 to ensure that Labor women staffers enjoyed the same career opportunities as their male colleagues. It offers an annual scholarship for female staffers to undertake activities relating to career development, including travel and training. As well as recommendations concerning independent complaint handling, training in office management and a code of conduct, the Network's recommendations interestingly included the need for a protocol on alcohol use. Many international reports mention the prevalence of alcohol in after-hours political work as contributing to the blurring of professional and personal boundaries and increasing the risk of misbehaviour.³ This is also a finding of the research by Maria Maley included in this special issue.

The workshop aimed to make Parliament a safer and more inclusive workplace by developing a model code of conduct. Former and current politicians, political staffers, national and international academic experts and key stakeholders were brought together to share insights and consider how to address issues of bullying, intimidation and harassment in Parliament. Academics offered a scholarly perspective on the impact of gendered norms and culture as an obstacle to change. Susan Harris Rimmer,

³ Marian Sawyer, 'Dealing with Toxic Parliaments: Lessons from Elsewhere', *Australasian Parliamentary Review* 36(1) 2021, p. 12.

for example, examined pathways to a safer political workplace, such as legal and cultural reforms, but noted that success depended on the ability of a complaint-handling body to deal with historical allegations and injustices. Kim Rubenstein took aim at the Australian Constitution, asking whether it is a barrier to a more inclusive Parliament and finding that in fact important reforms such as job-sharing by political candidates could be achieved simply by amendment of the *Commonwealth Electoral Act*.

Politicians participating in the workshop came from a range of political backgrounds. Many had already been engaged in initiatives to promote parliamentary reform, including Independent Dr Helen Haines MP and Greens Senator Larissa Waters, whose 2019 National Integrity (Parliamentary Standards) Bill would have established a code of conduct for parliamentarians and staff and a Parliamentary Standards Commissioner.⁴ The Hon. Kate Ellis drew on her own experience as well as interviews when describing the undermining of women politicians through the weaponising of sexual gossip and slut shaming,⁵ while the Hon. Sharman Stone argued that Parliament would remain an unsafe place for women as long as a gendered hierarchy was in place. ACT Liberal Leader Elizabeth Lee and Labor's Anne Aly MP talked about the intersectional challenges combining gender and racial prejudice that were part of their experience of politics.

As well as drawing on the workplace experience of both staffers and politicians in Australia, our workshop drew on the experience of other parliamentary jurisdictions including Catalonia, Canada, New Zealand, Sweden and the United Kingdom. This included overseas experience in the development of codes of conduct addressing gendered harms in the workplace as well as longer standing integrity and financial probity issues—the subject of many earlier codes of conduct.

DEVELOPING A CODE OF CONDUCT

A key objective of the two-day workshop was to prepare a submission to the Jenkins Inquiry—including a proposed code of conduct—based on the collective scholarship of

⁴ In 2020, Dr Haines also introduced a Commonwealth Parliamentary Standards Bill to create a statutory code of conduct for parliamentarians and their staff, focused on integrity issues.

⁵ Kate Ellis, *Sex, Lies and Question Time*. Melbourne: Hardie Grant, 2021.

participants and the experience of other parliamentary jurisdictions. The Commonwealth has a non-statutory code of conduct for Ministers (overseen by the Prime Minister) but no code of conduct for parliamentarians. Proposals have been made since the 1970s for a code of conduct applying to all parliamentarians as well as Ministers, with a breach of the code to constitute a breach of parliamentary privilege. The development of a code of conduct was included in the agreements entered into by the Gillard Government with Independents and the Australian Greens in 2010 but there was resistance.⁶ In 2017, Coalition Senators dissented from a Senate Committee recommendation for a Parliamentary Code of Multicultural Ethics, rejecting in principle any code of conduct: ‘Coalition Senators oppose the recommendation that democratically elected Members of Parliament should be bound by codes of ethics developed by previous parliaments’.⁷

It is notable that the ministerial code at the Commonwealth level, like most codes of conduct adopted so far in Australia, has been largely concerned with integrity matters such as conflict of interest and financial probity. While employment of relatives is included as an integrity issue in the Commonwealth ministerial code, the only mention of broader issues of office management is the prohibition of Ministers having sexual relations with their staff—the so-called ‘bonk ban’ introduced by Prime Minister Malcolm Turnbull in 2018. Hence a key objective of the workshop was to develop a code of conduct to address the gendered harms that had been identified in the parliamentary workplace, from bullying, intimidation, harassment and sexual harassment, up to sexual assault. As these gendered harms have been identified and addressed in the codes of conduct adopted in a number of overseas parliaments, examination of the promises and pitfalls involved was an important part of the workshop.

In considering the varied experiences of other parliaments, workshop participants were reminded of a key distinction between parliamentary reforms resulting from

⁶ For an excellent overview of Federal, State and Territory codes of conduct in Australia, including current proposals, see Deirdre McKeown and Michael Sloane, *Parliamentary Codes of Conduct: A Review of Recent Developments*, Parliamentary, Parliamentary Library Research Paper, Parliament of Australia, 2021.

⁷ Senate Select Committee on Strengthening Multiculturalism, Final Report, 2017. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Strengthening_Multiculturalism/Multiculturalism/Final_report

'scandals' (related to allegations of either sexual or financial misconduct), as opposed to the gender sensitive reviews recommended by the Inter-Parliamentary Union. The New Zealand code of conduct, for example, was prompted by the findings of the Francis Review, which made 85 recommendations. While allegations of misconduct also arose in the United Kingdom, that Parliament had previously undertaken its own gender sensitive audit (preceded by Professor Sarah Childs' independent review and recommendations), establishing a more inclusive approach to parliamentary reform.

To facilitate contributions to the submission from all workshop participants (both in person and online), a digital bulletin board (also known as a 'padlet') was created. A series of questions structured padlet discussions: should there be a mission statement and what should it look like; how should the grievance mechanism be established, who should sit on it, and how should it hear, and address, complaints; what should the sanctions be for code breaches; who/what should have responsibility for enforcing the code; and how could code enforcement be kept transparent and accountable? Participants were regularly encouraged to capture key lessons and personal reflections from the presentations and discussions on the padlet. Over two days, 17 contributors wrote a total of 44 responses to these questions.

These responses then informed the discussions of a smaller group of workshop participants interested in preparing the submission and code of conduct. With the support of a facilitator, the group decided that a short code of conduct (of no more than a page) should be contextualised by a set of values, as well as expectations of, and reasons for, change. Nominated values revolved around concepts of professionalism and integrity; accountability, culpability and power; cultural safety and space; and active citizenship and service. There was unanimous agreement on the need for a code of conduct to apply to all those working in parliamentary workplaces and an independent body to oversee implementation of the code and to handle complaints, as well as mandatory workplace training.

A drafting committee was then entrusted with crafting the submission text, later endorsed by 21 workshop participants. The proposed code of conduct is presented in Box 1.

Box 1. Proposed Code of Conduct for the Parliament of Australia

The Parliament of Australia should be a model workplace, where everybody is treated with respect and courtesy.

Whether you are a visitor or working in Parliament House or elsewhere, there are clear guidelines on how you should be treated or how you should treat others:

- Ensure Parliament meets the highest standards of integrity, courtesy and mutual respect
- Make Parliament a safe and inclusive workplace where diversity is valued
- Show that bullying and harassment, including sexual harassment, are unacceptable
- Speak up about any unacceptable behaviour
- Act professionally towards others
- Participate in training on harassment prevention and office management
- Understand that unacceptable behaviour will be dealt with seriously and independently, with effective sanctions

EXPLAINING THE PROPOSED CODE OF CONDUCT

In drafting the proposed code of conduct, it was important to consider the principles to be upheld in the parliamentary workplace, so that political offices were not regarded as private fiefdoms but rather as an important part of the machinery of representative democracy. As part of democratic machinery, political offices need to be managed in accordance with democratic values of diversity and inclusion and prevent conduct detrimental to gender equality such as sexual harassment. These values need to apply to all of those working in or visiting parliamentary precincts and to be spelled out, as they have been in the codes of conduct of comparable parliaments.

All reviews on how to address gendered harms occurring in the parliamentary workplace have also recognised the importance of introducing mandatory training in harassment prevention and office management. Many elected representatives have

no prior experience in office management and yet are slow to undertake training offered on a voluntary basis. Hence the importance of including participation in training as an element of the code of conduct, as has been done by the European Parliament.

The importance of an independent body to handle complaints has been recognised in all recent reviews of parliamentary workplaces. A body such as a Parliamentary Standards Commissioner also needs to be able to recommend effective sanctions. For elected politicians, these might include a recommendation to the relevant Privileges Committee of disqualification from parliamentary office holding or participation in parliamentary delegations, which are the sanctions applying to Members of the European Parliament who fail to commit to its parliamentary code of conduct.

Of course, the existence of sanctions is no guarantee that they will be used or perhaps even need to be used. Intentional non-compliance with existing integrity measures such as the registers of pecuniary interests is regarded as a contempt of the relevant house of Parliament. However only one MP has been referred to the House of Representatives Privileges Committee for failure to declare an interest, in that case his paid work for a lobby group. It was found not to amount to a contempt after he issued an apology for the ‘administrative error and oversight’. In October 2021 the Speaker recommended a referral to the Privileges Committee of a possible breach by Christian Porter MP of the requirement to declare an interest, but the Speaker was overruled by the Government.

One Senator has been referred to the Senate Privileges Committee, but as in the House of Representatives case, his failure to comply was found to be unintentional. In other instances, a failure to declare an interest was about to be referred to the Senate Privileges Committee but was withdrawn when the Senator involved made an apology.⁸ In the UK, independent reviews for the House of Commons noted that Members of Parliament were reluctant to investigate misconduct by other Members and also that they were not trusted by parliamentary staff to judge ‘one of their own’.⁹

⁸ *Odgers’ Australian Senate Practice*, 14th ed., 2016, p. 180, fn 59.

⁹ Dame Laura Cox, *The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report*, 2018, ¶1378; Gemma White QC, *Bullying and Harassment of MPs’ Parliamentary Staff: Independent Inquiry Report*. House of Commons, 2019, ¶100, ¶140.

While independent complaint-handling bodies with effective sanctions have been established in places such as the House of Commons in the United Kingdom, there are still powerful disincentives for staff to speak out about misbehaviour, including fear of political consequences. For this reason, an independent review in the House of Commons successfully recommended that the complaint-handling body have the power to handle historic cases.¹⁰ Former staffers were seen as more likely to be willing to bring a complaint, which might have a beneficial effect on the behaviour of current parliamentarians. Complaint-handling bodies also need to be able to record everyday incidents of misbehaviour that are reported but do not proceed to a formal complaint. A supplementary means of identifying patterns of misbehaviour is for the complaint-handling body to ensure that regular anonymous surveys of workplace experience are conducted. Disparity between the findings of such surveys and the record of complaints is also an important check on whether there is trust in the complaint-handling mechanism.

THEMES OF THE SPECIAL ISSUE

This special issue offers critical insights into the broader set of questions raised by the recognition of Parliament as a gendered workplace. Above all, it identifies and interrogates the compounding barriers that constrain the performance of women as political representatives and deny them equal opportunity in the parliamentary workplace. While the following articles focus on different areas of inquiry—from political staffers and politicians in the various levels of government in Australia and New Zealand to lessons from a related profession—collectively, they investigate the impact and ramifications of sexism writ large in political and politicised workplaces.

A broad theme of the workshop that resonates throughout this special issue is that of parliamentary spaces being *gendered*. In Australia, the parliamentary workplace encompasses more than the building of Parliament House: any place of work in which parliamentary business is conducted, from electorate offices to rooms in which the Cabinet or parliamentary committees are holding meetings, can be viewed as a site of gendered work. Gendered power relations, hierarchies, norms and practices—particular to the Parliament—operate in all of these workplaces. As Independent MP

¹⁰ White, *Bullying and Harassment of MPs' Parliamentary Staff*.

Helen Haines noted on the first day of the event, ‘the Parliament was set up by men, for men ... and even more so by alpha men’. Following this line of thought, in this issue Chris Wallace examines the sense of entitlement which lies at the heart of the offences against women committed in parliamentary offices, arguing that we desperately need effective measures that will undercut gendered power imbalances and ensure diversity. Wallace exposes the unequal distribution of power that allows workplace misconduct to flourish, especially where authority is concentrated at the top. Offering a perspective from the legal profession, Kieran Pender examines the extent to which the field of law is also a highly gendered space where those committed to positive change must confront numerous instances of inappropriate workplace behaviour. Pender argues that there are tangible lessons and insights to be gained here that could be useful for Parliament, due to the similar power structures and hierarchies shared by the two institutions. Such insights include the need for flexible reporting models that overcome reluctance to report.

While Parliament as an institution has been predominantly occupied by men, Maria Maley notes that administrative and clerical support for Ministers and parliamentarians has historically been provided by women and most employees hired under the *Members of Parliament (Staff) Act* (MOPS Act) are women. Ostensibly, political offices could be considered places in which women can wield power without the level of public scrutiny and criticism faced by women politicians. Yet Maley has discovered that these offices nevertheless remain ‘subject to masculine hierarchies and cultures’, and that the positions of those who work there are often vulnerable and precarious. Drawing on interviews with political staffers, Maley provides an in-depth analysis of the causes of these problematic working conditions, exposing the extent to which they are rife in the political workplace. Touching on the second major theme running through the special issue—the intersection of age and gender—Maley further observes that women staffers are, on average, younger than their male counterparts and are mostly recruited under the age of 30. This, she points out, contributes significantly to the exploitative sexual relationships predominant between senior men and junior women.

Likewise, in their investigation of the experiences shared by women running for local government, Andrea Carson, Gosia Mikolajczak and Leah Ruppner highlight the intersection of age and gender and discover a missing cohort of younger women. Using a mixed-method design that incorporates quantitative survey data as well as qualitative interviews, they enrich our understanding of the role that gender differences play in campaign and election experience. Despite finding that women have a higher election success rate, their study also revealed a ‘leaky pipeline’ and higher rates of burnout, particularly for young women, due to the demands of

managing family responsibilities on top of paid work and local government office holding. The authors point out that at least at the parliamentary level there are full-time salaries, removing the need to juggle paid work and political activity.

Pia Rowe similarly examines the barriers that women must overcome to achieve political participation in Parliament, noting the disproportionate share of caring responsibilities they shoulder. By examining Parliament through a ‘family-friendly’ lens, interviewing women parliamentarians before and during the COVID-19 pandemic, Rowe insists that we need to extend our understanding of care labour as more than the care of infants and toddlers, which has to some extent been addressed by the establishment of a childcare centre in Parliament House. To ensure Parliament can accommodate a modern work and family balance—built on the acceptance of a broader set of care responsibilities—Rowe suggests a more comprehensive assessment is required of parliamentary work practices, cultures and norms.

Throughout the workshop, participants repeatedly named the media as another gendered space in Australian public life. Capturing this sentiment, Carol Johnson and Blair Williams acknowledge that Parliament remains a sexist and discriminatory workplace but argue that this is often exacerbated by the media coverage. Examining media reception and coverage of Julia Gillard’s ‘Misogyny Speech’, the ‘slut-shaming’ of Sarah Hanson-Young, and Julia Banks’ critiques of a parliamentary culture of sexism, Johnson and Williams show how media actors have punished these politicians for their actions by portraying them in a sexist, trivialising, and demeaning manner. Yet they also observe how this trend is changing, with more supportive voices demonstrating the crucial role that journalists and political commentators can play in revealing and critiquing sexist behaviour.

While all papers call for a code of conduct, Kerryn Baker explores the impact that such a code has had in the New Zealand Parliament since its implementation. Baker maps two specific instances of reform that sought to diversify parliamentary culture: the introduction of a mixed-member proportional (MMP) electoral system in the 1990s; and the Francis Review and resulting voluntary code of conduct in 2019. While MMP has succeeded in increasing diversity, neither reform has shifted the sexist hypermasculine norms of parliamentary behaviour. Assessing the New Zealand situation, Baker argues that ‘effectiveness of the code of conduct will be severely limited by its voluntary nature and by the absence of an independent accountability mechanism’. As Baker clearly identifies, a code of conduct is not a sufficient solution to this problem but should be seen as ‘one tool among many’. We need a multifaceted response if we want to truly change our current political culture.

CONCLUSION

Since 2018, allegations of serious misconduct in the corridors of political power have been publicly aired and investigated. These allegations suggest a culture of male entitlement is not only tolerated, but privileged, in Parliament House. More alarmingly, the possibility that any of these allegations were known to the most senior of our political leaders—including the Prime Minister, Scott Morrison—suggests that the culture of male entitlement is normalised in Australia.

This is problematic on two fronts. First, it continues to present Parliament as predominantly a heterosexual masculine domain, making it less likely that women and LGBT Australians will consider nominating as electoral candidates. The Australian Parliament must become a much more attractive workplace if women and others are to consider politics as a worthwhile career. Without a code of conduct that sets out expectations of workplace culture and behaviour, and enables sanctions for any transgressions, the Parliament will fail to achieve the kind of inclusive practices and diverse composition that reflects Australian society and its democratic values.

Second, the acceptance of masculinised norms of entitlement in the political realm reinforces such norms in Australian society. Violent and sexist behaviour in the Parliament legitimises violent and sexist behaviour in society more broadly. As we have seen, the 2020–21 allegations of sexual assault, harassment, bullying and intimidation in Parliament uncovered, for the second time in Australian political history, an underlying culture of sexism and misogyny. Many women politicians are now calling out behaviour they previously thought they had to put up with to be accepted as a ‘team player’ in politics.¹¹

A code of conduct represents an important mechanism by which all individuals—regardless of gender or partisan affiliation—can call out sexism, misogyny and gender-based violence in the parliamentary workplace. It also represents a signal to prospective candidates and voters that the Australian Parliament takes these issues seriously and means to address them substantially.

¹¹ Kate Thwaites and Jenny Macklin, *Enough is Enough*. Clayton: Monash University Publishing, 2021, p. 10.

Changing the Conditions Underpinning Gendered Entitlement in Parliament as a Workplace

Chris Wallace

Associate Professor, 50/50 By 2030 Foundation, University of Canberra.

Abstract Gendered entitlement underpins the bullying, harassment and assault which flourishes in places like the Australian Parliament, where power is concentrated in the hands of male politicians. This article identifies necessary steps to undercut it. Mitigation measures should include a robust complaints process independent of, and external to, Parliament; demonstrable and transparent consequences for offenders; and the use of regular, anonymous, publicly available surveys of MPs, political staffers and ancillary staff to track incidents relative to actual complaints, so the system can be adjusted to maximise effectiveness. These measures are necessary but not sufficient, given parliamentary offenders' amplified sense of entitlement that underpins the problem's resistance to change. Active measures must be taken to induce real diversity throughout the parliamentary ecosystem, beyond the current '50/50 gender equity focus', to disrupt current patterns of entitlement based on gender, race and class that make parliaments as workplaces less safe. Parallels with society as a whole need to be drawn, and comparable initiatives and approaches deployed community-wide to address the same pervasive problems.

INTRODUCTION

This article focuses on the interrelated sense of individual and group entitlement among the powerful as a critical factor in contemporary political dysfunction broadly defined, and identifies necessary steps to undercut it in the Australian Parliament. It deploys British feminist cultural critic Jacqueline Rose's insight that gendered entitlement runs deeper than privilege, and is 'more slippery to grasp', because it 'relies for its persistence on a refusal to acknowledge that it is even there', instead

'hovering in the ether'.¹ 'Shiftiness' is 'hardwired' into the exercise of power by the entitled, Rose has argued, underpinning its 'invincibility' as it 'hides its true nature from itself.'² Entitlement generates and perpetuates bullying, harassment and assault of a distinctly gendered kind, and conditions and reproduces patterns of power which see entitled offenders committing these crimes largely without, for them, consequences. Negligible to non-existent consequences for miscreance create a permissive environment in Parliament as a workplace, where wrongdoers correctly believe the odds are tilted towards little or no sanction for wrongdoing. The entitled expect their fellows to perpetuate the privilege they individually and collectively enjoy. Statistics on the low reporting rates, and even lower conviction rates, of offences show that expectation is usually fulfilled. There is a half-century long scholarly, policy and activist body of knowledge concerning its empirical, theoretical and practical dimensions. Yet the chronic record of bullying, harassment and assault by boys and men against each other, but to a vastly greater extent against women, girls, non-binary and trans- people, continues barely trammelled. This article addresses this phenomenon in Parliament as a workplace and, against the backdrop of gendered violence which has recently come to light in the Australian Parliament, draws conclusions about how it can be addressed.

THE POLITICAL CONTEXT

As is the case across society, the phenomenon of gendered violence is evident in the Australian Parliament as a workplace though largely out of public purview. Contemporary cases of bullying, harassment and assault occasionally come to public prominence and momentarily seize institutional and public attention. This was the case in relation to the Australian Parliament in a sequence of events beginning with the broadcast on 9 November 2020 of the ABC-TV *4 Corners* report, 'Inside the Canberra Bubble', by journalist Louise Milligan, which detailed sleazy, sexist behaviour by Morrison Government Cabinet Ministers Christian Porter and Alan Tudge.³ Aspects of

¹ Jacqueline Rose, 'Damage: the silent forms of violence against women'. *Guardian*, 30 March 2021. Accessed at: <https://www.theguardian.com/news/2021/mar/30/damage-the-silent-forms-of-violence-against-women>.

Jacqueline Rose, *On Violence and On Violence Against Women*. London: Farrar, Straus and Giroux, 2021.

² Rose, 'Damage'.

³ Louise Milligan, 'Inside the Canberra Bubble', ABC-TV *4 Corners*, 9 November 2020. Accessed at: <https://www.abc.net.au/4corners/inside-the-canberra-bubble/12864676>.

Porter's recent and historical behaviour toward, and attitudes to women, were a particular focus.⁴ Several weeks later, on 25 January 2021, Prime Minister Scott Morrison announced Grace Tame as Australian of the Year.⁵ Tame's #LetHerSpeak campaign had led to reform of state government laws prohibiting victims of sexual violence from speaking about their assaults. Three weeks after that, on 15 February 2021, *news.com.au* journalist Samantha Maiden reported the alleged rape of former Morrison Government staffer Brittany Higgins by a fellow staffer while both worked for Defence Industry Minister, Senator Linda Reynolds in 2019. The alleged attack occurred on the couch in Reynolds' Parliament House office mere metres from the office of Prime Minister Morrison.⁶ Higgins had not previously spoken about the alleged rape but the image of the Prime Minister presenting the award to Grace Tame 'hardened her resolve' to do so: 'I was sick to my stomach. He's standing next to a woman who campaigned for 'Let Her Speak' and yet in my mind his government was complicit in silencing me. It was a betrayal. It was a lie'.⁷

Within days, another former Liberal staffer alleged in the *Weekend Australian* that she too had been raped by Higgins' assailant.⁸ Then a third victim, a Liberal campaign volunteer, alleged in the *Weekend Australian* that she too had been sexually assaulted

⁴ Louise Milligan, Peter Cronau and Lucy Carter, 'Christian Porter was Warned Over Public Behaviour with Young Female Staffer by Then-Prime Minister Malcolm Turnbull', ABC News, 9 November 2020. Accessed at: <https://www.abc.net.au/news/2020-11-09/four-corners-investigation-christian-porter-alan-tudge/12862632>; Milligan et al., 'Investigation Reveals History of Sexism and Inappropriate Behaviour by Attorney-General Christian Porter', ABC News, 10 November 2020. Accessed at: <https://www.abc.net.au/news/2020-11-10/four-corners-investigation-christian-porter-sexism-inappropriate/12862910>.

⁵ Announcement of Grace Tame as 2021 Australian of the Year, Canberra, 25 January 2021. Accessed at: <https://www.youtube.com/watch?v=giTvpwh1VDM>.

⁶ Samantha Maiden, 'Young Staffer Brittany Higgins Says She Was Raped at Parliament House', *news.com.au*, 15 February 2021. Accessed at: <https://www.news.com.au/national/politics/parliament-house-rocked-by-brittany-higgins-alleged-rape/news-story/fb02a5e95767ac306c51894fe2d63635>.

⁷ Samantha Maiden, 'Scott Morrison Image that Made Brittany Higgins Speak Out about Alleged Rape', *news.com.au*. Accessed at: <https://www.news.com.au/national/politics/scott-morrison-image-that-made-brittany-higgins-speak-out-about-alleged-rape/news-story/cd43fee050269e4d3f9dc0f17dfa7b38>.

⁸ Samantha Maiden and Natalie Brown, 'Second Woman Alleges Ex-Staffer of Rape', *news.com.au*, 20 February 2021. Accessed at: <https://www.news.com.au/national/politics/second-woman-accuses-exliberal-staffer-of-rape/news-story/d20d092ab1afd886b3d6093d3fe7766b>.

by the same man.⁹ A fourth woman, another former staffer, told *4 Corners'* Louise Milligan she had been startled and angered when, uninvited, the same man reached under a table and stroked her thigh.¹⁰ On 26 February 2021, eleven days after Maiden broke the story on Higgins' alleged rape, Milligan reported on *ABC News* that the Australian Federal Police had 'been notified of a letter sent to Morrison detailing an alleged historical rape by a Cabinet Minister in the federal government'.¹¹ Details of the Morrison Government's weak response to Higgins' internal representations at the time of the alleged attack; its inaction on the substance of the allegations after they were made public; backgrounding against Higgins by the Government in political damage control; and the allegation of historical rape against the Cabinet Minister who revealed himself to be Attorney-General Christian Porter, generated a popular outrage which culminated in 'March4Justice' rallies at Parliament House in Canberra and more than 40 cities around Australia.¹²

These events occurred against still recent memories of the bullying of female Liberal Party MPs by male colleagues during the leadership struggle in which Scott Morrison displaced Malcolm Turnbull as Prime Minister in 2018. Recounting this bullying in her memoir *Power Plays*, published in 2021, former Liberal MP Julia Banks further disclosed attempts at misogynistic manipulation by male colleagues, including Scott Morrison, as well as casual sexual harassment of her by male Liberal MPs, including a serving Cabinet

⁹ Stephanie Dalzell and Jack Snape, 'Third Woman Alleges She Was Sexually Assaulted by the Same Man Accused of Raping Brittany Higgins', *ABC News*, 22 February 2021. Accessed at: <https://www.abc.net.au/news/2021-02-22/third-woman-alleges-sexual-assault-same-man-as-brittany-higgins/13177536>.

¹⁰ Louise Milligan, 'Fourth Woman Makes Complaint about Former Staffer Who Allegedly Raped Brittany Higgins', *ABC News*, 22 February 2021. Accessed at: <https://www.abc.net.au/news/2021-02-22/fourth-woman-accuses-staffer-in-brittany-higgins-case/13178190>.

¹¹ Louise Milligan, 'Scott Morrison, Senators and AFP Told of Historical Rape Allegations against Cabinet Minister', *ABC News Online*, 26 February 2021. Accessed at: <https://www.abc.net.au/news/2021-02-26/pm-senators-afp-told-historical-rape-allegation-cabinet-minister/13197248>.

¹² Jewel Topsfield, 'A Tidal Wave' of Tears and Rage Sweeps the Nation as Tens of Thousands Rally', *Sydney Morning Herald*, 15 March 2021. Accessed at: <https://www.smh.com.au/national/a-tidal-wave-of-rage-protests-field-anger-at-women-s-long-fight-20210315-p57ayo.html>; 'Enough is enough': March4Justice Rallies – In Pictures', *Guardian*, 15 March 2021. Accessed at: <https://www.theguardian.com/australia-news/gallery/2021/mar/15/enough-is-enough-march-4-justice-rallies-in-pictures>; Yan Zhuang, 'Enough Is Enough': Thousands Across Australia March Against Sexual Violence', *New York Times*, 16 March 2021. Accessed at: <https://www.nytimes.com/2021/03/15/world/australia/australia-women-marches.html>.

Minister.¹³ The memoir of former Labor Minister Kate Ellis, *Sex, Lies and Question Time*, also published in 2021, recounted routine, gendered weaponisation of ‘sexual gossip’ by male MPs against women MPs.¹⁴ Current Labor MP Kate Thwaites and former Labor deputy-leader Jenny Macklin also published *Enough is Enough*, a reflection on cultural and structural aspects of the Australian Parliament ‘allowing’ sexual harassment, in 2021.¹⁵ ABC-TV journalist Annabel Crabb’s documentary series *Ms. Represented* aired on national television in July and August 2021, putting the experience of recently and currently serving women politicians into historical context.¹⁶ The period from the spring of 2020 through to winter 2021 saw the most intense focus on gendered violence in the Australian parliamentary workplace ever witnessed. Even as it unfolded, some warned that Government ‘stonewalling’ would likely see the issue recede from public consciousness as the news cycle saw it displaced unless ‘novel ways to keep the media engaged over time, ratcheting up pressure’ on the Government to act, were devised.¹⁷

There is longstanding scholarship and extensive, hard-acquired activist knowledge about the problem of male hegemony, including in parliaments as workplaces.¹⁸ Significant current scholarship was presented at the ‘Parliament as a gendered workplace: Towards a new code of conduct’ workshop at the Australian National University in July 2021, at which a broad consensus emerged that a robust independent complaints process, ensuring demonstrable and transparent consequences for offenders, was needed. Shortly after the workshop the ‘Review of the Parliamentary Workplace: Responding to Serious Incidents’ (the Foster Report), commissioned by

¹³ Julia Banks, *Power Play: Breaking through Bias, Barriers and Boys’ Clubs*, Melbourne: Hardie Grant, 2021.

¹⁴ Kate Ellis, *Sex, Lies and Question Time*. Melbourne: Hardie Grant, 2021.

¹⁵ Kate Thwaites and Jenny Macklin, *Enough is Enough*. Melbourne: Monash University Publishing, 2021.

¹⁶ *Ms Represented with Annabel Crabb*, 4 episodes, ABC-TV, July-August 2021. Accessed at: <https://iview.abc.net.au/show/ms-represented-with-annabel-crabb>.

¹⁷ Chris Wallace, ‘The Women’s March Was a Huge Success. Now Comes the Hard Part: How to Actually Get Something Done’. *The Conversation*, 17 March 2021. Accessed at: <https://theconversation.com/the-womens-march-was-a-huge-success-now-comes-the-hard-part-how-to-actually-get-something-done-157225>.

¹⁸ Marian Sawyer, ‘Dealing with Toxic Parliaments: Lessons from Elsewhere’. *Australasian Parliamentary Review* 36(1) 2021, pp. 7-22.

Morrison and chaired by Department of Prime Minister Cabinet Deputy-Secretary Stephanie Foster, was released.¹⁹

GOVERNMENT RESPONSE

The Foster Report recommended, and the Morrison Government accepted, the need for:

An independent complaints mechanism for serious incidents, including allegations of assault, sexual assault, sexual harassment, and serious and systemic bullying or harassment ... established under the Parliamentary Service Act 1999 (Cth) as a function of the Parliamentary Service Commissioner (PSC), with oversight by the Presiding Officers of the House of Representatives and the Senate'.²⁰

Brittany Higgins welcomed the Morrison Government's acceptance of the Foster Report's recommendations, including a complaints mechanism with the Parliament's presiding officers—the President of the Senate and the Speaker of the House of Representatives—rather than the Department of Finance as the responsible entities.²¹ Journalist Jenna Price drew attention to the limited improvement in independence the proposed new complaints mechanism represented, given Presidents and Speakers are routinely drawn from Government ranks and depend on continuing Government support for their tenure.²² Price's critique was endorsed by Julia Banks.²³ Banks advocated for a complaints mechanism fully independent from the Parliament, and

¹⁹ Stephanie Foster, *Review of the Parliamentary Workplace: Responding to Serious Incidents*. Canberra: Department of Prime Minister Cabinet, 2021. Accessed at: <https://pmc.gov.au/sites/default/files/publications/review-parliamentary-workplace-responding-serious-incidents-final.pdf>.

²⁰ Recommendation 4, Stephanie Foster, 'Review of the Parliamentary Workplace', p. 13.

²¹ Brittany Higgins, Tweet @BrittHiggins, 26 July 2021. Accessed at: https://twitter.com/BrittHiggins_/status/1419530476528619530.

²² Jenna Price, 'To Make It a Safe House, Take this Process Out of the House'. *Canberra Times*, 30 July 2021. Accessed at: <https://www.canberratimes.com.au/story/7363260/to-make-it-a-safe-house-take-this-process-out-of-the-house/>.

²³ Julia Banks, Tweet @juliabanks, 30 July 2021. Accessed at: <https://twitter.com/juliabanks/status/1420981598938296322>.

from federal government departments which report directly to Government Ministers, from the moment she resigned as a Liberal MP in 2018 and joined the crossbench over the bullying and harassment she experienced at the hands of Liberal Party colleagues, including the Prime Minister.²⁴ Still to come at the time of writing is Sex Discrimination Commissioner Kate Jenkins' Independent Review into Commonwealth Parliamentary Workplaces, commissioned by Morrison following the rape allegation of Brittany Higgins.²⁵ Banks has argued this additional review is superfluous because the 'outstanding and comprehensive' recommendations of Jenkins' earlier 2020 report, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces*, would have worked had they been adopted by the Morrison Government when the report was delivered to the then Attorney-General, Christian Porter, in January 2020.²⁶ Instead it languished in Porter's 'in tray' for over a year between then and Porter going on ministerial leave on 3 March 2021, after publicly disclosing he was the Cabinet Minister concerned in Louise Milligan's 26 February ABC News report of an historical rape allegation against a serving Cabinet Minister.²⁷

²⁴ 'There is ... a clear need for an independent whistleblower system, as found in many workplaces, to enable reporting of misconduct of those in power without fear of reprisal or retribution'. Commonwealth, *Parliamentary Debates*, House of Representatives, 27 November 2018, 11571, Julia Banks. 'She said she had been clear since 2018 that Parliament had an "entrenched anti-women workplace culture" and things would not change until there was "an independent whistleblower reporting system for workplace misconduct as is found in most good corporations"'. Katharine Murphy, "'Menacing Controlling Wallpaper": Julia Banks Says Her Three Months under Scott Morrison Were "Gut-Wrenching"'. *The Guardian*, 5 July 2021. Accessed at: <https://amp.theguardian.com/australia-news/2021/jul/05/menacing-controlling-wallpaper-julia-banks-says-her-three-months-under-scott-morrison-were-gut-wrenching>. 'Most importantly, all workplaces should have an independent investigative whistle-blower system. It should be embraced in federal law. And the lawmakers should ensure it applies to themselves as well'. Julia Banks, *Power Play*, p. 167.

²⁵ Kate Jenkins, Independent Review into Parliamentary Workplaces: Progress Update, July 2021. Accessed at: https://humanrights.gov.au/sites/default/files/document/publication/ahrc_progress_update_independent_review_cpw_2021.pdf.

²⁶ 'Banks ... said the government should have just got on with implementing the recommendations the sex discrimination commissioner had made in her "outstanding and comprehensive Respect@Work review"'. Murphy, "'Menacing controlling wallpaper"'.

²⁷ Louise Milligan, 'Scott Morrison, Senators and AFP Told'.

Morrison, along with Porter's successor as Attorney-General, Senator Michaelia Cash, finally responded to Respect@Work on 8 April 2021.²⁸ Morrison described it as a 'game changer'.²⁹ Subsequent analysis of the Government's response proved disappointing.³⁰ Five of the 55 recommendations were accepted only in principle, another nine merely noted and another only partly agreed. The key recommendation, that the *Sex Discrimination Act* be amended to positively charge employers with a duty to take reasonable measures to provide a safe workplace for women, was not adopted.

Morrison, meanwhile, defended Porter from sustained calls for an independent inquiry into Porter's fitness for high office. Porter lost his position as Leader of the House, in which he was responsible for the management of Government business and tactics on the floor of Parliament, but remained in Cabinet, merely moved sideways from the Attorney-General's portfolio into the comparably senior position of Industry Minister. In a costly misstep in terms of credibility and legal costs, Porter sued the ABC for defamation over Milligan's report, only to later settle out of court with no damages and Milligan's report remaining in the public domain without change. Nevertheless, at the earliest opportunity, when Porter's successor as Leader of the House, Peter Dutton, was confined to his home state of Queensland because of a COVID-19 lockdown, Morrison underlined his solidarity with Porter by appointing him to act in Dutton's place, usurping Deputy-Leader of the House, David Gillespie. This was 'a slap in the face of our entire nation,' Grace Tame declared, arguing 'it isn't just Porter's character that's in question here, it's the morality of our current leadership'.³¹

Morrison's other move in the reshuffle was to restore the number of women in the 23-person to Cabinet to seven, its level until the Nationals' Bridget McKenzie was dropped

²⁸ Australian Government, *A Roadmap for Respect: Preventing and Addressing Sexual Harassment in Australian Workplaces*, Canberra, 8 April 2021. Accessed at: <https://www.ag.gov.au/sites/default/files/2021-04/roadmap-respect-preventing-addressing-sexual-harassment-australian-workplaces.pdf>.

²⁹ 'Respect@Work "Is a Game Changer": PM Responds to Workplace Harassment Report'. [sky.news.com.au](https://www.skynews.com.au/australia-news/respectwork-is-a-game-changer-pm-responds-to-workplace-harrasment-report/video/a656799c9bc686e8c165780712c1dd6f), 8 April 2021. Accessed at: <https://www.skynews.com.au/australia-news/respectwork-is-a-game-changer-pm-responds-to-workplace-harrasment-report/video/a656799c9bc686e8c165780712c1dd6f>.

³⁰ Farrah Tomazin, "'A Bit Disappointing": Dismay at Government Response to Sex Harassment Report'. *Sydney Morning Herald*, 19 April 2021. Accessed at: <https://www.smh.com.au/national/a-bit-despairing-dismay-at-government-response-to-sex-harassment-report-20210416-p57ju0.html>.

³¹ Grace Tame, 'Porter's Elevation Betrays PM's Chilling Apathy towards Survivors'. *Sydney Morning Herald*, 4 August 2021. Accessed at: <https://www.smh.com.au/politics/federal/porter-s-elevation-betrays-pm-s-chilling-apaty-towards-survivors-20210803-p58feo.html>.

over her role in the ‘sports rorts’ scandal the previous year.³² However, the women promoted were at the conservative end of the Government’s ranks, including the notably right-wing Liberal Amanda Stoker. Morrison was criticised for describing Minister for Women Marise Payne as the ‘Prime Minister for Women’, interpreted widely as implying he was the Prime Minister for men. Even right-wing commentator Peta Credlin judged Morrison as having ‘made a bad situation worse’, making ‘fundamental mistakes on women’.³³ Nevertheless, the controversy blew over. As with previous elements in these execrable events, even after sustained periods of high political tension around Parliament as a gendered workplace, the news cycle moved on. The Prime Minister’s approval rating fell but remained positive in net terms, sagging into net negative territory only under the eventual weight of the Government’s faltering COVID-19 vaccination rollout in August 2021—and even then Morrison’s net approval rating was better than that of innocuous Labor Opposition Leader Anthony Albanese.³⁴

The ‘shiftiness’ Jacqueline Rose has argued is ‘hardwired’ into the exercise of power by the entitled—in this case, entitled conservative white male politicians—demonstrably underpinned an ‘invincibility’ of the privileged during the nine months following the broadcast of Milligan’s ‘Inside the Canberra Bubble’ story in November 2020. Having survived the furore following this and successive elements in the Australian parliament’s gendered violence crisis, Morrison was so emboldened he actively sought a way to symbolically stand with Porter: he temporarily restored Porter to leadership of the House, with negligible apparent political cost. The Liberal and National Coalition Government became more brazen in its disregard for Parliament as a safe and fair workplace for women during this period. This disregard reached its apogee with the restoration of Barnaby Joyce, who relinquished the office of Nationals leader and

³² Brett Worthington, ‘Scott Morrison Moves Christian Porter, Linda Reynolds and Peter Dutton in Cabinet Reshuffle’. ABC Online, 29 March 2021. Accessed at: <https://www.abc.net.au/news/2021-03-29/scott-morrison-reshuffles-Cabinet-reynolds-porter-dutton/100035484>.

³³ Matt Young, ‘Scott Morrison Faces Backlash from All Sides after Marise Payne “Prime Minister for Women” Comment’. news.com.au, 30 March 2021. Accessed at: <https://www.news.com.au/finance/work/leaders/scott-morrison-faces-backlash-from-all-sides-after-marise-payne-prime-minister-for-women-comment/news-story/205d43e80924724612c0d6e1214a84c0>.

³⁴ See successive Newspolls 2020-2021. Scott Morrison’s net approval rating did not become negative until the 8 August 2021 Newspoll. Simon Benson, ‘PM’s Newspoll Ratings Slump to Delta Low’. *The Australian*, 8 August 2021. Accessed at: <https://www.theaustralian.com.au/topics/newspoll>.

deputy-Prime Minister in a sexual harassment scandal in 2018, to his former leadership position.³⁵ An allegation in 2018 by senior figure in the Western Australian Nationals, Catherine Marriott, was investigated internally by former NSW Nationals state director Ross Cadell. After an eight-month inquiry, Cadell delivered a 'no-conclusion verdict' to the outrage of Marriott.³⁶ Three years later Cadell won the Nationals' top Senate ticket position in New South Wales, guaranteeing his election to federal Parliament at the next federal poll.³⁷ As part of the candidate vetting process, senior NSW Nationals learned Cadell's former wife had applied for an apprehended violence order (AVO) against him but did not rule him out of contention; nor did they disclose the AVO application to the party members who voted in the Senate preselection contest.³⁸

THE NATURE OF THE PROBLEM

This aggregation of events inexorably draws attention to what black British feminist writer Lola Olufemi in *Feminism, Interrupted: Disrupting Power* has called 'the sexist state'.³⁹ Olufemi has highlighted how 'the allocation of resources and the way oversight is carried out reinforces gendered oppression' through the absence of policies addressing women's economic precarity, inadequate 'safety net' provision,

³⁵ Michelle Grattan, 'Barnaby Joyce Succumbs to Pressure and Will Go to Backbench'. *The Conversation*, 23 February 2021. Accessed at: <https://theconversation.com/barnaby-joyce-succumbs-to-pressure-and-will-go-to-backbench-92353>; Finn McHugh and Anthony Piovesan, 'Barnaby Joyce Returns as Nationals Leader after Ousting Michael McCormack in Spill'. [news.com.au](https://www.news.com.au/finance/work/leaders/barnaby-joyce-says-no-prospect-of-spill-as-leadership-speculation-mounts/news-story/5ea9530665cc8c4189801b0a9e43673e), 21 June 2021. Accessed at: <https://www.news.com.au/finance/work/leaders/barnaby-joyce-says-no-prospect-of-spill-as-leadership-speculation-mounts/news-story/5ea9530665cc8c4189801b0a9e43673e>.

³⁶ Katharine Murphy, 'Barnaby Joyce Sexual Harassment Investigation Unable to Reach Conclusion'. *The Guardian*, 7 September 2018. Accessed at: <https://www.theguardian.com/australia-news/2018/sep/07/barnaby-joyce-sexual-harassment-investigation-unable-reach-determination>.

³⁷ Sarah Martin, 'Nationals' Top NSW Senate Pick Was Subject of Apprehended Violence Order Application'. *The Guardian*, 7 July 2021. Accessed at: <https://www.theguardian.com/australia-news/2021/jul/07/nationals-top-nsw-senate-pick-was-subject-of-apprehended-domestic-violence-order-application>.

³⁸ Sarah Martin, 'Nationals' Top NSW Senate Pick'.

³⁹ Lola Olufemi, *Feminism, Interrupted: Disrupting Power*. London: Pluto Press, 2020.

restrictions on voting rights, abortion, rights under marriage and property ownership. This ensures women remain ‘second-class citizens’.⁴⁰

Liberal feminism tells us that this was a long time ago and that times have changed. Things are generally better for women than they were 50 years ago. Because we are living in an age where ‘gender equality’ is a hot topic and public figures and politicians proudly state their feminist credentials, it is now harder to trace the legacy of this repression and to examine the ways that it continues to this day. The state has orchestrated a smokescreen. But what happens when we blow it away?⁴¹

Australian politics in the nine months between Milligan’s ‘Inside the Canberra Bubble’ going to air in the spring of 2020, and Morrison showing pointed solidarity with Christian Porter in the winter of 2021, revealed much about what lies behind the smokescreen. The bravery and persistence of individual, often young, women and their allies declaring their experiences in Parliament as a gendered workplace; the determination of a number of women journalists and their media organisations reporting that testimony; and the published accounts of a number of former and current women politicians, provided deep insights into the dynamics of Parliament as currently constituted. When the smokescreen was briefly blown away, several significant things became clear.

Firstly, the gendered privilege and entitlement in Parliament, and therefore sense of ‘invincibility’, as Jacqueline Rose puts it, of those possessing it, is robust, systemic and resistant to challenge. In this context, a code of conduct mitigating it is necessary but will not be sufficient, any more than the ministerial code of conduct has become in relation to the prevarications and pervasive conflicts of interest riddling the Morrison Government.⁴² That does not mean such a code of conduct is pointless, however, any more than it means the code of ministerial conduct is pointless in relation to the veracity and probity of Ministers. It means that a code of conduct must be linked to a complaints mechanism independent of Parliament, as urged by Banks and others, just as the ministerial code of conduct must be linked to an independent commission

⁴⁰ Olufemi, *Feminism, Interrupted*, p. 23.

⁴¹ Olufemi, *Feminism, Interrupted*.

⁴² ‘A dossier of lies and falsehoods: How Scott Morrison manipulates the truth’. *Crikey*, 2021. Accessed at: <https://www.crikey.com.au/dossier-of-lies-and-falsehoods/>.

charged with the investigation of official corruption, for which there is now widespread support.⁴³ That such codes must be linked to truly independent bodies capable of exacting consequences for miscreance is axiomatic. ‘Rapists know that rape is wrong and still commit it because of a sense of entitlement to someone else’s bodily autonomy,’ as Olufemi pointed out in relation to gendered violence. ‘This is not something that can be fixed by merely asking rapists not to rape; women have been making this plea for centuries to no avail’.⁴⁴ If entitlement is to be disrupted and eliminated, there must be real and visible consequences for its wrongful exercise. Regular anonymous, publicly-available surveys of MPs, political staffers and ancillary staff to track the frequency of perceived offences compared to the number of complaints made would reinforce transparency.

Secondly, the systemic nature of gendered violence in Parliament as a workplace needs to be perceived and acted upon in its wider context. Large power imbalances, employee ambition and/or significant need, late nights, isolation, alcohol and a range of other factors are common characteristics of Parliament and several other workplaces including, notably, those in the hospitality and entertainment industries. The consequences of gendered entitlement and privilege need to be addressed for everyone, not just those in Parliament. Given underreporting of gendered violence and negligible conviction rates among those actually charged, the ‘justice system’ as currently configured works better for offenders than victims, buttressing gendered entitlement and privilege. It requires urgent re-engineering. As Julia Banks has commented, ‘What’s needed is “zero tolerance of no accountability” for these issues’.⁴⁵ This demands national leadership and action in conjunction with the states and territories that have constitutional responsibility for it. The spotlight thrown by the precious ‘innocent until proven guilty’ principle of English law blinds us to the profound asymmetries in current ‘justice system’ outputs, even as the gendered nature of

⁴³ Finbar O’Mallon, ‘Federal ICAC Could Restore Faith: Labor’. *Canberra Times*, 28 January 2020. Accessed at: <https://www.canberratimes.com.au/story/6601206/federal-icac-could-restore-faith-labor/>; Josh Butler, ‘Pressure Mounts on Government to Pass Federal ICAC plan’. *New Daily*, 27 October 2020. Accessed at: <https://thenewdaily.com.au/news/2020/10/27/federal-icac-pressure/>; Katharine Murphy, ‘Eight-one Per Cent of Australians Want a Federal ICAC, Guardian Essential Poll Shows’. *The Guardian*, 3 November 2020. Accessed at: <https://www.theguardian.com/australia-news/2020/nov/03/eighty-one-per-cent-of-australian-voters-want-a-federal-icac-guardian-essential-poll-shows>.

⁴⁴ Olufemi, *Feminism Interrupted*, p. 97.

⁴⁵ Banks, *Power Play*, p. 168.

policing practices and ‘justice system’ outcomes has become known. It cannot be re-engineered effectively without considering it in the context of the ‘sexist state’. American philosopher Amia Srinivasan, considering the ‘politics of safety’, provides insights into a facet of this through the example of Englishwoman Sarah Everard’s murder in London on 3 March 2021 and subsequent events. On 13 March 2021, hundreds of women gathered peacefully at Clapham Common to mourn Everard’s murder and urge action on women’s safety in daily life.⁴⁶ The Metropolitan Police violently dispersed the women’s peaceful protest, in contrast to its permissive handling of other public gatherings before and since. British Prime Minister Boris Johnson described Everard’s murder as ‘horrific’ and proposed posting plainclothes police in bars as part of the Government’s policy response. Yet it was a serving Metropolitan Police officer, Wayne Couzens, who kidnapped, raped and murdered Everard. Srinivasan placed this in the context of 1,500 accusations of sexual misconduct against police officers in England and Wales between 2012 and 2018, and noted statistics showing male police officers in the United Kingdom and United States assault their partners at significantly higher rates than average. In Johnson’s policy response to Everard’s murder, and the Metropolitan Police’s response to women’s peaceful protests about it, the ‘sexist state’ can be seen in action, reinforcing systemic gendered entitlement and privilege, even in Johnson’s case while expressing concern and seeming to act upon it.

‘Safety is a real human good: we all need some significant measure of it in order to be able to go about our lives as free persons,’ according to Srinivasan.⁴⁷ The fate of the unprivileged and unentitled in Parliament as a workplace is part of a much wider issue concerning the distribution of safety in society at large. If anything but brittle, temporary fixes are to be achieved in Parliament as a gendered workplace, these must be addressed together with those in society as a whole, not separately. Srinivasan cites black feminist American scholar and activist Bernice Johnson Reagon’s argument that an effective politics for change must build coalitions across difference and forsake the notion of comfort in practising that politics. According to Reagon:

Coalition work is not work done in your home. Coalition work has to be done in the streets And you shouldn’t look for comfort. Some people

⁴⁶ Amia Srinivasan, ‘The Politics of Safety’. *Weekend FT* ‘Life and Arts’. Asia edition, 14-15 August 2021, pp. 1-2.

⁴⁷ Srinivasan, ‘The Politics of Safety’, p. 1.

will come to a coalition and they rate the success of the coalition on whether or not they feel good when they get there. They're not looking for a coalition; they're looking for a home! They're looking for a bottle with some milk in it and a nipple, which does not happen in a coalition.⁴⁸

This is relevant to the third thing that became clear in Australian politics between the spring of 2020 and the winter of 2021, against the backdrop of the earlier 2018 Liberal leadership struggle in which Morrison displaced Turnbull as Prime Minister. Women have featured significantly in reinforcing the 'invincibility' of male entitlement and privilege in Parliament as a workplace during this period. Julia Banks described Morrison, in his bullying of her after he became Prime Minister, as 'like a constant menacing background wallpaper, imperceptibly controlling his obliging intermediaries to do his work for him'.⁴⁹ Banks describes, too, what might be called 'wallpaper women': the women Liberal MPs Morrison and his allies enlisted in that bullying. In a key example, Banks cites an unnamed woman Liberal MP who made public attacks on Banks at the behest of a Liberal faction boss who threatened the MP's preselection for non-compliance; that woman is now a Cabinet Minister.⁵⁰ The various women Morrison featured in his March 2021 ministry reshuffle range from the usefully pliant Senator Marise Payne to the openly patriarchally-aligned like Amanda Stoker. The Nationals have their 'wallpaper women' too. One of the two key MPs who engineered the restoration of Barnaby Joyce to the Nationals leadership and deputy-Prime Ministership was a woman, Bridget McKenzie, who was returned to Cabinet as a result.

The significance of the 'wallpaper women' is that it is naïve to mobilise behind the idea that gender equality in Parliament is enough to disrupt and dispatch the current pattern of gendered entitlement and privilege. If gender equity in Parliament meant more 'wallpaper women' in Canberra reinforcing male entitlement and privilege—and that is one possible outcome—it would hardly represent progress. Quite the opposite. This is why gender equity in Parliament is a necessary part of the solution but is not in itself a solution. It is why, while a code of conduct is desirable, moves to disrupt and undercut gendered privilege in Parliament must be part of a much wider push for diversity and inclusion, situated in a commitment to changing gender, race and class

⁴⁸ Srinivasan, 'The Politics of Safety', p. 2.

⁴⁹ Banks, *Power Play*, p. 182.

⁵⁰ Banks, *Power Play*, pp. 115-117.

relations in society as a whole, not just at the top. In doing so, feminists and other equity activists need to shift from a '50/50' to a '40/40/20' diversity focus, which opens the way for a more complicated and complete pursuit of diversity. In Parliament this should achieve diversity not just in the ranks of MPs but among political staffers and the ancillary staff of Parliament too.

CONCLUSION

A code of conduct addressing gendered violence in Parliament as a workplace is desirable provided it is linked to an independent complaints body external to Parliament, with power to name and sanction offenders. It would be most effective if established in tandem with anonymous, annual, publicly-available surveys tracking the nature and incidence of gendered violence in Parliament, so the gap between incidents and action can be monitored, and policies and processes adjusted to close the gap between the two. This should occur as part of a parallel re-engineering of the 'justice system' overall which currently does more to protect gendered violence offenders than it does their victims. That wider 'justice system' re-engineering should include the same anonymous, annual, publicly-available surveys tracking the nature and incidence of gendered violence so the gap between incidents and action can be monitored in society as a whole, with policies and processes adjusted to close the gap between the two instead of routinely continuing to protect offenders more than victims as it does now.

Further, and crucially, gendered entitlement must be disrupted and eliminated through decisive collective efforts to achieve real diversity in positions of power, in Parliament and across society—the threshold task to ensure genuine inclusion. Among other things, this will require women recognising that women are as capable of being enlisted in the perpetuation of current patterns of entitlement as men, and acknowledging that that many—notably in conservative political parties—willingly do so for the individual rewards that brings. This realisation should spur a shift from the current '50/50' focus of gender parity activism in favour of '40/40/20' approaches with the inherent flexibility to achieve more complicated, contextually-appropriate, and therefore higher impact, improvements in diversity.

Olufemi challenges us to 'face up to the realities of the state's actions', and to take action.⁵¹ Srinivasan's 'politics of safety' charges us with understanding, and doing something about, how safety is actually distributed.⁵² Both demand our gaze widen to include people who are poor, people of colour, people of different genders, sexualities and abilities in our actions to disrupt and defeat current patterns of entitlement and privilege. Most of all, this demands collectivity. 'Collective organisation...requires us to work together towards common interests, an idea that is entirely antithetical to the individualism that underpins neo-liberal thinking,' according to Olufemi. 'Collective responses remind us that as much as it benefits the state to delink and isolate us, we need each other to survive'.⁵³ This necessitates the conscious embrace of a version of the uncomfortable coalition-building Bernice Johnson Reagon has argued for in the US, an approach to which Srinivasan has brought renewed attention. It will take a lot to defeat the 'shiftiness' inherent in the prevailing patterns of entitlement identified by Rose. It can only be done together, in a bigger and more complicated push for diversity than those pursued so far.

⁵¹ Olufemi, *Feminism, Interrupted*, p. 35.

⁵² Srinivasan, 'The politics of safety'.

⁵³ Olufemi, *Feminism, Interrupted*, 34.

Improving Workplace Culture: Lessons from the Legal Profession

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Abstract In recent years, the legal profession has been rocked by allegations of sexual harassment against senior lawyers, barristers and judges, in Australia and elsewhere. At a local, national and international level, much effort has gone towards improving workplace culture in the law—addressing the drivers of inappropriate behaviour and properly responding to incidents when they arise. Given the structural similarities between parliamentary and legal workplaces, what lessons can those seeking to drive change in the Australian Parliament learn from cognate efforts in the legal profession? This article, drawing on the author’s experience leading the International Bar Association’s work in this field, identifies transferable best-practice for the parliamentary context. It considers the need for an inclusive campaign for workplace safety, flexible reporting models, quasi-independent oversight and efforts to address the wider context contributing to the unacceptable prevalence of sexual harassment.

¹ The views expressed here are the author’s own and do not represent the views of any of the institutions with which he is affiliated. The author thanks Madeleine Castles and Marian Sawer for their helpful comments on an earlier draft.

INTRODUCTION

There should be absolutely no place in this profession, nor any other, for bullies or sexual harassers. At the very least, people deserve dignity and a safe, supportive environment in return for their work.²

Just nine months separated the two news reports that catalysed sexual harassment crises in all three branches of Australian government. The reporting that Dyson Heydon, a former High Court justice, had sexually harassed junior staff while on the bench crystallised a harassment reckoning in the judiciary and in the wider legal profession. Less than a year later, allegations made by former political staffer Brittany Higgins—that she had been sexually assaulted in an office in the Australian Parliament—led to a groundswell of public momentum to address harassment in politics and all areas of life. Australia’s own #MeToo moment has arrived. Tens of thousands of Australians took to the streets to say, in the words of one placard waved outside Parliament House, ‘enough is enough’. But how do we ensure that this momentum translates into concrete change? That challenging question is the focus of this article.

In June 2020, the *Sydney Morning Herald* reported that Heydon had been found by an independent inquiry commissioned by the High Court to have sexually harassed six young female staff during his tenure.³ The reporting sparked outcry—more targets came forward alleging past misconduct by Heydon,⁴ while others alleged harassment by other senior members of the legal profession.⁵ The peak body for the legal profession, the Law Council of Australia, urgently convened an expert panel to develop

² Survey Respondent, quoted in Kieran Pender, *Us Too? Bullying and Sexual Harassment in the Legal Profession*. London: International Bar Association, 2019.

³ Kate McClymont and Jacqueline Maley, ‘High Court Inquiry Finds Former Justice Dyson Heydon Sexually Harassed Associates’. *Sydney Morning Herald*, 22 June 2020. Accessed at: <https://www.smh.com.au/national/high-court-inquiry-finds-former-justice-dyson-heydon-sexually-harassed-associates-20200622-p5550w.html>.

⁴ Kate McClymont and Jacqueline Maley, ‘“The Judge’s Hands Became Very Busy Under the Table”: lawyer Says Heydon Groped Her’. *Sydney Morning Herald*, 23 June 2020. Accessed at: <https://www.smh.com.au/politics/federal/the-judge-s-hands-became-very-busy-under-the-table-lawyer-says-heydon-groped-her-20200622-p554zg.html>.

⁵ See, for example, Naaman Zhou, ‘“Nobody Stood Up for Me”: Young Lawyers Say Harassment Rife in Australian Legal Profession’. *Guardian Australia*, 26 June. Accessed at: <https://www.theguardian.com/law/2020/jun/26/nobody-stood-up-for-me-young-lawyers-say-harassment-rife-in-australian-legal-profession>.

a ‘National Action Plan to Reduce Sexual Harassment in the Australian Legal Profession’.⁶ The Attorney General and Chief Justice of Victoria ordered an independent review into sexual harassment in the state’s court system,⁷ and the New South Wales Supreme Court overhauled its harassment policy.⁸ The judicial branch had been rocked. (A year later, another inquiry found that another judge, on the Federal Circuit Court, had sexually harassed two women).⁹

Soon it was the executive and legislative branches of government facing the same scrutiny. On 15 February 2021, former ministerial advisor Higgins alleged to *news.com.au* and *The Project* that she had been sexually assaulted at Parliament House (at the time of writing, a prosecution is ongoing).¹⁰ Higgins’ story catalysed a movement—other stories of sexual harassment and assault in parliamentary workplaces surfaced. Tens of thousands of Australians took to the streets in the ‘March 4 Justice’ on 15 March 2021.¹¹ Ultimately, the Higgins allegations resulted in Prime Minister Scott Morrison commissioning an independent review by the Sex Discrimination Commissioner Kate Jenkins.¹² The movement that followed the Higgins allegations focused attention on widespread inappropriate behaviour in Australian

⁶ Law Council of Australia, Release of National Action Plan to Reduce Sexual Harassment in the Australian Legal Profession. Accessed at: <https://www.lawcouncil.asn.au/media/media-releases/release-of-national-action-plan-to-reduce-sexual-harassment-in-the-australian-legal-profession->

⁷ Disclosure: the author served on an advisory panel to the Review. Supreme Court of Victoria, ‘Review to Address Sexual Harassment’. Accessed at: <https://www.supremecourt.vic.gov.au/news/review-to-address-sexual-harassment>.

⁸ Michaela Whitbourn, ‘NSW Supreme Court Appoints Adviser to Handle Complaints about Judges’. *Sydney Morning Herald*, 2 July 2020. Accessed at: <https://www.smh.com.au/national/nsw-supreme-court-appoints-adviser-to-handle-complaints-about-judges-20200702-p558fz.html>.

⁹ Jacqueline Maley, ‘Federal Circuit Court Judge Found to Have Harassed Two Young Women’. *Sydney Morning Herald*, 7 July 2021. Accessed at: <https://www.smh.com.au/national/federal-circuit-court-judge-found-to-have-harassed-two-young-female-staff-20210707-p587sz.html>.

¹⁰ Samantha Maiden, ‘Young Staffer Brittany Higgins Says She Was Raped at Parliament House’. *News.com.au*, 15 February 2021. Accessed at: <https://www.news.com.au/national/politics/parliament-house-rocked-by-brittany-higgins-alleged-rape/news-story/fb02a5e95767ac306c51894fe2d63635>.

¹¹ ‘Australia March 4 Justice: Thousands March against Sexual Assault’. *BBC*, 15 March 2021. Accessed at: <https://www.bbc.com/news/world-australia-56397170>.

¹² Katharine Murphy, ‘Sex Discrimination Commissioner Kate Jenkins to Lead Review into Parliament’s Workplace Culture’. *Guardian Australia*, 5 March 2021. Accessed at: <https://www.theguardian.com/australia-news/2021/mar/05/sex-discrimination-commissioner-kate-jenkins-to-lead-review-into-parliaments-workplace-culture>.

political life and the challenges faced in preventing such misconduct and appropriately addressing incidents when they arise.

Given the similarities between the Heydon findings and the Higgins allegations, it might seem strange to look to the legal profession for guidance in driving positive change in the parliamentary context. But the legal profession (encompassing law firms, other legal practices, barristers' chambers and the court system) has been grappling with how to prevent and address inappropriate behaviour for some time. The first research on the prevalence and drivers of harassment in the legal profession dates back to the 1980s and it has remained an issue of concern ever since.¹³ After the #MeToo movement was sparked in October 2017 with reporting by the *New York Times* and *New Yorker* about the misconduct of Harvey Weinstein,¹⁴ the legal profession across the globe has been rocked by sexual harassment scandals. From New York to New Zealand, from Santiago to Singapore, from Lisbon to London, the legal profession has faced a reckoning. In 2019, a report by the International Bar Association (IBA), the peak global body for the legal profession, found that one in three female lawyers globally had been sexually harassed. As the report noted in its opening sentence, '[t]he legal profession has a problem'.¹⁵ That and other research has contributed to momentum for positive change.

That is not to say that the legal profession has all the answers. There are no silver bullets. But the profession has systematically engaged with these issues in different contexts, and different cultures, over the past four years. There is insight to be derived from those efforts for consideration by those attempting to drive positive workplace cultural change in Australia's parliamentary workplaces. This is particularly because of the structural similarities between the two professions. Both have male-dominated senior leadership: judges, senior barristers and law firm partners remain overwhelming male, as are politicians. The structural similarities extend beyond a failure to achieve gender parity. Researchers have identified characteristics that increase the likelihood of negative workplace behaviours—these include 'where leadership is male-dominated ... where the power structure is hierarchical, where lower-level employees are largely

¹³ See, for example, IBA report p12

¹⁴ Jodi Kantor and Megan Twohey, 'Harvey Weinstein Paid Off Sexual Harassment Accusers for Decades'. *New York Times*, 5 October 2017. Accessed at: <https://www.nytimes.com/2017/10/05/us/harvey-weinstein-harassment-allegations.html>.

¹⁵ See, for example, Pender, *Us Too?*, p. 11. The survey was of 7,000 lawyers from 135 countries.

dependent on superiors for advancement, and where power is highly concentrated in a single person'.¹⁶ These characteristics describe most legal and political workplaces.

Sexual harassment is repugnant in any sector, and in any area of life. But it is particularly problematic in the legal profession and the political arena, fields where—by virtue of the special rights, privileges and responsibilities entrusted to our legal and political class—the highest of standards are expected.

In this article, I explore lessons from the legal profession's efforts to drive change that may helpfully inform initiatives to ensure safety and respect in Australia's parliamentary workplaces. For almost three years, from the beginning of 2018 to the end of 2020, I contributed to the IBA's work in this field. Following the publication of the *Us Too?* Report, I led a global engagement campaign involving work in 30 cities across six continents. I have also served on a United Nations expert working group on gender-related integrity issues in the judiciary, and on committees working to address harassment and promote diversity and inclusion for the ACT Law Society and NSW Law Society. In the sections that follow, I share some insight from that work.

CAMPAIGNING FOR CHANGE

Much ink has been spilt on the importance of leadership in driving cultural change. Leadership matters—that much is almost universally accepted. For the legal profession to achieve safer workplaces, senior judges, lawyers and barristers need to lead by example—the same is true in Parliament. Prime Minister Morrison has a centrally-important role; the tone he sets will influence the efficacy of efforts to drive change in politics. But less attention has been paid to the need for inclusive, deliberative change. While the tone may be set at the top, the tenor is influenced by every single person in an organisation. That is particularly true because the campaign to address inappropriate workplace behaviour is not a short-term fix, which means that the leaders of tomorrow must subscribe today.

¹⁶ Nancy Gertner, 'Sexual Harassment and the Bench'. *Stanford Law Review* 71 2018, pp. 88-94. See also Kimberly Schneider, John Pryor and Louise Fitzgerald, 'Sexual Harassment Research in the United States' in Ståle Einarsen and others (eds), *Bullying and Harassment in the Workplace: Developments in Theory, Research, and Practice* (2nd edition). Boca Raton: CRC Press 2011, pp. 250–252.

These issues had been on my mind while drafting the *Us Too?* report. One of our recommendations was to engage with younger members of the profession: ‘Younger legal professionals are disproportionately impacted by bullying and sexual harassment. They must be part of this conversation – they will play a major role in developing and implementing solutions and shaping workplace culture’.¹⁷ But it was one thing to say this, and another entirely to do it in practice, given the steeply hierarchical nature of the legal profession. It was not until I arrived in Aotearoa New Zealand, midway through the campaign, that I saw an example of it being implemented in practice.

The New Zealand legal profession had been rocked by several high-profile harassment claims against senior members of a prominent law firm. What began as a handful of allegations led to a flood of truth-telling, facilitated by an anonymous blog. The issue became front-page news and a topic for discussion in New Zealand’s Parliament; young lawyers took to the street to protest. Speaking to one major New Zealand law firm, about 18 months after the initial incidents, but at a time when the momentum for change was still fresh, senior partners explained to me that, recognising the moment, they had scrapped their existing harassment policy and framework. They had then invited their entire firm—hundreds of employees—to participate in an inclusive process designed to develop a new framework that accurately reflected what the entirety of the firm wanted, both in terms of substance and process. The partners admitted to me that the redrafting had been a challenge—a committee of several hundred does not move swiftly. But it had been extremely worthwhile, uniting the firm behind a mutual understanding of what they wanted to achieve and maintain as a workplace culture.

This shared ownership of cultural change, and uniform knowledge of standards and processes to be followed where standards are not met, ensured the policy was not just a meaningless piece of paper gathering dust. In contrast, addressing the staff of a major international law firm in Paris, someone raised their hand and admitted: ‘If this happened to me, I would not know where to go, what to do, how to report’. This was a global firm with all the infrastructure, policies and training in place but the top-down nature of those efforts had evidently failed to ensure that this particular individual knew what to do in the event they experienced harassment. Subsequently reflecting on my conversation with the New Zealand firm, I was struck by the obvious advantages

¹⁷ Pender, *Us Too?*, p. 10.

of an inclusive approach. Of course, in an organisation of any scale, engaging in a deliberative process with all staff is not easy. But it is not impossible either. Where leadership is committed to change, they can ensure the tone is not only top-down but also bottom-up and side-to-side.

Just as an inclusive campaign for change must include younger members of the workforce, so too must it include men. It goes without saying that men are the predominant perpetrators of sexual harassment. Men also remain disproportionately represented at senior levels of leadership, in law and politics. That means men must be involved in change. There is a difficult balance to be struck here. For too long, men have monopolised the levers of power, so it is understandable to feel aggrieved about efforts to ensure men have a say in something they experience at far lesser rates to women. I recall the uproar when a large British law firm convened a predominantly-male panel for an International Women's Day event to offer an 'alternative spin'.¹⁸ But while the framing might have been tone-deaf, we cannot achieve change with only half of the population engaged in the conversation.

Both of these lessons are, I believe, salient in the parliamentary context. The former, the inclusive approach to inclusion, is made more complex in politics due to the constant movement of staff. The staff entrances to the House of Representatives and the Senate are, quite literally, revolving doors. Ensuring ongoing commitment to a campaign for change in an ever-changing workplace poses distinct challenges. But these are obstacles that must be addressed. The independent review, led by the Sex Discrimination Commissioner, has begun on the right note through a consultative and inclusive interview and submission process. This approach must be carried forward to implementation and then maintained, including through ongoing evaluation and efforts to engage or re-engage on these issues as the parliamentary workforce evolves.

PREVENTING HARASSMENT

The best way to address the corrosive impact of inappropriate workplace behaviour is to prevent it from happening in the first place. But this is easier said than done. The

¹⁸ Thomas Connelly, 'Shoosmiths Faces Social Media Backlash over International Women's Day 'Male Champions' Panel'. *Legal Cheek*, 4 March 2020. Accessed at: <https://www.legalcheek.com/2020/03/shoosmiths-faces-social-media-backlash-over-international-womens-day-male-champions-panel/>.

efficacy of narrowly compliance-focused anti-harassment training is far from clear. In the *Us Too?* survey there was no statistically significant difference in the prevalence of harassment at workplaces that did or did not undertake harassment training.¹⁹ There are several macro solutions, considered further below. But there are also more immediate, workplace-specific efforts to reduce the occurrence of inappropriate behaviour.

One increasing focus in the legal profession has been to train lawyers to be better managers and better leaders. Traditionally, the law has not valued people skills. The typical trajectory of a lawyer, in a commercial firm, is to be steadily promoted, and gain increasing managerial responsibility, initially for one or two juniors and, by the time of a partnership, perhaps for 10 or 20 lawyers and staff, without receiving any formal management training, coaching or mentoring. But a good lawyer is not necessarily a good manager and a workplace environment without proper management and leadership is one where toxic behaviour can occur and persist. During the *Us Too?* campaign, I spoke to many senior leaders in law firms who underscored the increased focus they were giving to soft-skill training. A similar emphasis in politics, where, like law, career paths typically lack management training, would be welcome.

There must also be a greater focus on addressing all forms of misconduct and inappropriate behaviour and not only severe incidents. The cases that make the headlines are those where the harassment is particularly egregious, inappropriate and often unlawful—the Harvey Weinstein-esque behaviour. The charge brought in the Higgins case is sexual intercourse without consent—sexual assault.²⁰ But the data suggests, in the legal profession at least, that the more common experiences of workplace sexual harassment are verbal or visual. Sixty-seven percent of sexual harassment targets responding to the *Us Too?* survey said they had experienced sexual or sexually suggestive comments; half had been looked at in an inappropriate manner; a quarter had received sexual proposition.²¹ In contrast, only one in five had

¹⁹ Pender, *Us Too?*, p. 81.

²⁰ 'Man to Face Court over Alleged Sexual Assault of Coalition Staffer at Parliament House'. *Guardian Australia*, 6 August 2021. Accessed at: <https://www.theguardian.com/australia-news/2021/aug/06/man-to-face-court-over-alleged-sexual-assault-of-coalition-staffer-at-parliament-house>.

²¹ Pender, *Us Too?*, p. 56.

experienced seriously inappropriate physical contact (for example, kissing, fondling or groping).

These observations have twofold significance. Firstly, it means that we must focus on eradicating a wider variety of inappropriate behaviour. We must seek to address the more typical forms of harassment—what has been labelled by the American equality regulator as a ‘gateway drug’ to more severe forms of incivility.²² As I have written elsewhere:

[T]he vast majority of harassment in legal workplaces is latent and non-physical. That makes it no less insidious, no less corrosive, and often no less impactful on the targets of the behaviour. More ‘serious’ incidents may of course have an aggravated impact. Law’s harassment problem looks like Heydon’s purported wrongdoing; it also more commonly looks like the ‘everyday’ inappropriate conduct that remains widespread in Australian workplaces.²³

Secondly, such a focus requires normalising a ‘speak up’ culture where less-severe forms of harassment are called out (especially by bystanders), rather than laughed off or brushed aside.

SPEAKING UP

When incidents do occur, in the overwhelmingly majority of cases they are not reported. In the *Us Too?* survey data, three-quarters of targets of sexual harassment had never reported the incident. A further 14 percent had only sometimes reported when they had been sexually harassed on more than one occasion. Just seven percent of survey respondents said that they had reported on all occasions.²⁴ Wider data sets, such as the Australian Human Rights Commission’s research on harassment across Australian workplaces, paint a similar picture: the publicised cases of sexual

²² US Equal Employment Opportunity Commission, ‘EEOC Launches New Training Programme on Respectful Workplaces’. 4 October 2017. Accessed at: www1.eeoc.gov/eeoc/newsroom/release/10-4-17.cfm.

²³ Kieran Pender, ‘Law’s #MeToo Moment: Effecting Change in the Legal Profession’. *Australian Book Review*, August 2020. Accessed at: <https://www.australianbookreview.com.au/abr-online/archive/2020/august-2020-no-423/830-august-2020-no-423/6648-law-s-metoo-moment-effecting-change-in-the-legal-profession-by-kieran-pender>.

²⁴ Pender, *Us Too?*, p. 62.

harassment are just the tip of the iceberg. This state of affairs presents a significant challenge—how do we encourage targets of sexual harassment to speak up?

The status quo reporting model for incidents in workplaces involves paved pathways: procedures or guidelines outline who a target of harassment should report to. It might be a human resources manager, a law firm partner, a risk and compliance officer. But by paving this path, we are inhibiting the target from following what in landscape design is known as their desire path. Given all the other barriers to reporting, this is ill-advised. We want targets to feel comfortable speaking up however they wish—to take whichever off-path track they want—and not to feel that, unless they follow the paved walkway, they are better off staying silent.

In practice, this focus on flexible reporting can take different forms. Semi-regular anonymous staff surveys can be a helpful starting point to develop an understanding of the prevalence of inappropriate behaviour in a workplace—staff may feel more comfortable raising concerns when they know they are anonymised and intended to gauge patterns rather than address specific incidents. Some law firms I worked with have adopted models that provide contact points for reporting across the hierarchy. On the sound assumption that it can be easier to report to a colleague at a similar level than a senior partner, firms have given specific training to people at all levels, who are then specifically identified as ‘inclusion advocate’, ‘diversity leads’ or similar. Others have prioritised giving as much control over the process as possible to the target. The Victorian Bar, for example, has a three-tier reporting mechanism.²⁵ A target of harassment can report an incident to the Bar’s senior leadership, through a portal whereby the individual’s identity and that of the perpetrator remain anonymous. The report is not intended to precipitate any formal investigation, but (a) empowers the individual to speak up on their own terms, which may assist with healing; and (b) can inform the leadership’s macro-level approach to addressing culture concerns across the profession. Alternatively, a target can report to a colleague who has been given conciliation training, and they can seek to find an appropriate resolution between the target and the perpetrator. Thirdly, the target may make a complaint to the regulator, which can lead to formal disciplinary action. The guiding philosophy is that targets of

²⁵ Victorian Bar, ‘Internal Conduct Policies and Reports’. Accessed at: <https://www.vicbar.com.au/public/about/governance/internal-conduct-policies-and-reports>.

harassment should be empowered to speak up in whatever form, and to whatever extent, they feel comfortable.

Technology offers some assistance in encouraging reporting. In recent years, a number of technological solutions have come to market to address the challenge of workplace incident reporting. These have earned the label Trust Tech.²⁶ While the exact features vary, these solutions typically enable a target of harassment to retain greater control over the reporting process. Some enable anonymous reporting yet ensure the target can retain a communication channel with their workplace if they so wish. This might allow the relevant human resources or risk staff to explain the process and build trust with the target to the point where they feel comfortable dissolving the anonymity and proceeding with a formal complaint. Others allow data capture at the time of an incident or thereafter, without it being instantaneously submitted to internal or external authorities. Thus the target of an incident can record their experience in a secure, time-stamped manner, ensuring the retention of possible evidence while they consider whether or not to proceed with a formal report.

More sophisticated Trust Tech solutions are now also offering information escrow, where reports are held by the third-party provider until they are ‘matched’ with another complaint against the same perpetrator, which might empower people to speak up knowing their report will only proceed if they have safety in numbers. While these technological developments may contribute – potentially significantly – to developing a speak-up culture within workplaces, they are no panacea. As the co-founder of one such Trust Tech solution, Vault Platform, noted in an interview: ‘You can buy tools to help you build a healthy culture, but you can’t buy culture itself. If you don’t support the creation of that culture organically, there aren’t any tools that will save it’.²⁷

Lastly, reporting channels should be normalised and embedded into workplace frameworks. This was a lesson I learnt from Sylvain Mansotte, the founder and chief executive of Whispli, a Trust Tech solution. Mansotte encourages his clients to use Whispli for as many staff-organisation interactions as possible, on the basis that it destigmatises use of speak-up tools and ensures familiarity with reporting pathways.

²⁶ See generally Emma Franklin and Kieran Pender, *Innovation-Led Cultural Change: Can Technology Effectively Address Workplace Harassment?*. London: International Bar Association, 2020.

²⁷ Neta Meidav, quoted in Franklin and Pender, *Innovation-Led Cultural Change*, p. 10.

If someone experiences a traumatic incident such as sexual harassment, requiring them to speak up using an unfamiliar pathway only adds another barrier to reporting. Some will go ahead but others will not or might get halfway through the process before deciding against it. Mansotte's philosophy, then, is to encourage the normalisation of speak up tools and processes. If staff use the same channels to ask questions about leave, say, as they do about inappropriate behaviour or fraud, the barriers to speaking up will be significantly lowered.

While there is some merit in processes and procedures designed to be target-centric and trauma-informed, such features should be on the back-end, not the front-end. If Parliament establishes a reporting framework that is solely focused on sexual harassment, that very feature will serve as a moat around it, a barrier that must be overcome before it can be used. Some incidents might not be reported through stigma or fear or uncertainty about the process. Others will not be reported because targets feel that their experience was not severe enough to warrant a formal process. In contrast, if reporting channels are normalised and intended to be used in a range of circumstances, and staff are encouraged to speak up about incidents, however 'minor', that design will go a long way towards fostering a culture where it is psychologically safe to raise concerns.

RULES AND REGULATORS

Perhaps the most difficult challenge in the parliamentary context, given the constitutional obstacles to external regulation and the inherent limitations of self-regulation, is in devising an effective oversight model with rules, remedies and consequences. I do not claim to have the answer to this dilemma. But the experience of the legal profession underscores the need for an effective, independent or quasi-independent oversight body and offers some guidance as to the challenges and opportunities such a body will encounter.

Since the 1990s, regulators of the legal profession—which vary globally and in Australia from being an arm of the professional peak body, a standalone statutory body or an offshoot of the court—have explicitly sought to address inappropriate behaviour in their rules and regulations. In 2011, for example, the Law Council of Australia promulgated the *Solicitors' Conduct Rules*, which serve as model law for a number of Australian jurisdictions. These rules provide, relevantly, at clause 42 that 'a solicitor must not in the course of practice, engage in conduct which constitutes: discrimination; sexual harassment; or workplace bullying'.

However, it has only been since the #MeToo movement and subsequent harassment reckoning that regulators have sought to enforce these ethical and regulatory obligations. Globally, there had long been a perception that inappropriate interpersonal conduct was a workplace concern, not a regulatory concern. Regulators instead focused on financial misconduct and malpractice. That prior inaction is no more. Regulators in Australia, the United Kingdom, New Zealand, Singapore, Canada, the United States and elsewhere have launched high-profile disciplinary cases against lawyers for sexually harassing colleagues or third parties. The threat of sanction is significant—among the tools in a regulator’s arsenal is disbarment (removal from the profession).

The first lesson for the political context is that external or quasi-external oversight makes a big difference. The starting point must be a clear set of standards—a code of conduct or similar. In law, the expected behavioural standards are clearly set out in the regulatory framework. But having a code of conduct alone is not enough—it needs to be enforced. The legal profession would not have moved so swiftly on harassment, particularly in England, were it not for regulators prioritising the issue. Having a body with sufficient power and autonomy to receive, manage and address complaints is therefore essential. But again, a body of this nature in Parliament, while a necessary step for change, is not in itself a sufficient step. Here the legal profession also offers guidance.

Regulators, like individual workplaces, have struggled to encourage individuals to report incidents. All the regulatory powers in the world come to naught if the regulator cannot investigate and undertake disciplinary action in the absence of an individual’s complaint. One regulator identified this as their primary challenge: ‘Our survey indicated bullying and harassment was taking place but not being reported’.²⁸ Regulators have responded by prioritising informal reporting mechanisms. Both the NSW and Victorian legal profession regulators have been innovative in this regard. By removing some of the rigidity of formal reporting requirements and focusing on a ‘reporting now (through whatever mechanism possible), details later’ approach, regulators have underscored that the most important thing for them is knowledge. Even if some informal reports do not lead to formal investigation, their understanding of an incident is helpful in other ways. For this reason, it is essential that any oversight

²⁸ Pender, *Beyond Us Too?*.

body in Parliament is empowered to receive informal reports, including anonymously, and explore innovative, technologically-enabled reporting platforms.

Another major challenge faced by regulators in law has been the sanction process. In most jurisdictions, the regulatory body prosecutes disciplinary action but the sanction is determined by an independent tribunal. In recent years, particularly in England, it has become apparent that there are divergent attitudes between regulators and tribunals as to inappropriate behaviour. These cases, and others, including in Australia, have indicated a dissonance between stated regulatory priorities and the nominal penalties delivered by disciplinary tribunals. Given the limitations on sanctions in the parliamentary context (including as a result of constitutional barriers), these risks are particularly pronounced and should be carefully considered in the design of the oversight body.

Ultimately, these challenges can and must be overcome. As part of the IBA survey, one regulator told us:

Being a fit and proper person is at the heart of what it means to be a member of an esteemed and trusted profession. Regulators need to have the ability to call out and sanction bullying and harassment to maintain a healthy profession for those who work within it, as well as showing the public we care for what it means to be a lawyer. However, any response needs to be compassionate and proportionate and to take care of all people involved.²⁹

The same is true, no doubt, of politics and Parliament.

THE BIGGER PICTURE

Finally, it is important to appreciate that inappropriate workplace behaviour does not occur in a vacuum. It is influenced by a wider workplace context and indeed the broader societal setting. The significance of this is twofold. Firstly, efforts to address workplace sexual harassment cannot be undertaken in isolation—they must form one

²⁹ Pender, *Beyond Us Too?*.

part of a more holistic campaign. Secondly, that campaign cannot be limited to the professional world. I will explore these points in turn.

We know that workplace harassment is a barrier to greater female representation in senior leadership in the law.³⁰ Equally, research suggests that disproportionately male-dominated leadership in a workplace is a risk factor for inappropriate workplace behaviour. This suggests that there is a two-way relationship between workplace diversity and workplace harassment: efforts to address harassment should have a positive impact on diversity,³¹ and greater workplace diversity should contribute to a lower risk of workplace harassment. While neither is a panacea for the other, that does not mean the relationship is insignificant. If Australia had a legal profession—or a Parliament—that more accurately reflected the society each represents, there would be less harassment within it. For this reason, initiatives to ensure positive workplace cultures free from inappropriate behaviour must be part of a wider push to attract, retain and advance women in both the legal and political realm.

The wider workplace context also includes issues like mental health and wellbeing and alcohol. The mental wellbeing of the legal profession is currently a major area of concern. A recent empirical study found that ‘lawyers’ levels of wellbeing are below the global average in every [region].³² An unhappy workplace is one ripe for toxic behaviour to go unchecked. Over the past decade, a number of studies have highlighted the rising misuse of alcohol and drugs in the legal profession.³³ Alcohol is a common risk factor in sexual harassment cases.³⁴ While alcohol does not excuse inappropriate behaviour, unfortunately it too often partially explains it. Efforts to reduce the prevalence of alcohol at social events and the centrality of drinking to a

³⁰ See Jane Ellis and Ashleigh Buckett, *Women in Commercial Legal Practice*. London: International Bar Association, 2017.

³¹ While I focus here on gender diversity, the same is broadly true of diversity in all its forms – especially as we know that harassment has an intersectional impact. See Pender, *Us Too?*, p. 31.

³² ‘IBA Releases Interim Survey Results on Wellbeing in the Legal Profession’. International Bar Association, 1 April 2021. Accessed at: <https://www.ibanet.org/article/09C3DA0E-723F-4E21-9A7E-AA0DFF1FB627>.

³³ Not that these are new issues. See Rick Allan, ‘Alcoholism, Drug Abuse and Lawyers: Are We Ready to Address the Denial’. *Creighton Law Review* 31 1997 p. 265.

³⁴ This is both the anecdotal evidence from stories shared with the *Us Too?* survey and the case in a number of disciplinary proceedings brought against solicitors in Australia, New Zealand and the United Kingdom. See, for example, *Beckwith v Solicitors Regulation Authority* [2020] EWHC 3231 (Admin).

profession's culture are therefore welcome steps as part of a wider anti-harassment agenda.

There is a balance to be struck here, though. During the *Us Too?* campaign, I heard from many law firms that had sought to grapple with the relationship between alcohol and inappropriate behaviour. Some had threatened to ban alcohol entirely from workplace-sponsored social events, which had often led to an outcry by junior members of the workplace. Others had focused on limiting excessive drinking at workplace events, providing non-alcoholic options and food alongside alcohol and organising social gatherings in contexts where alcohol was not present (such as breakfasts). These may seem trivial steps but reducing the prevalence of alcohol and addressing the cultural significance of alcohol within the legal profession are both worthwhile initiatives in their own right (particularly given the non-inclusive nature of alcohol-soaked social events for non-drinkers). They will also have a non-negligible impact on the occurrence of inappropriate behaviour. The same points are true of Parliament.

More broadly, efforts to address workplace misbehaviour must begin well outside the workplace. It is not as if individuals arrive in the legal profession, or in politics, and suddenly become perpetrators of harassment. Of course, toxic workplace culture can contribute to behaviour (to quote the title of one landmark report into the drivers of unethical workplace conduct, 'Rotten apples, bad barrels and sticky situations').³⁵ But the legal profession and Parliament are not unique in experiencing an unacceptable prevalence of inappropriate workplace behaviour. While the problem in those contexts may be acute and, quite rightly, subject to heightened scrutiny, they are connected to the sexual assault epidemic at Australian universities³⁶ and the prevalence of harassment in everyday life. These, in turn, reflect the underlying gender inequality and entrenched patriarchal norms that still shape Australian society. Efforts to improve consent, relationship and sexuality education in school,³⁷ eradicate the gender pay gap and take steps to address the imbalance in unpaid domestic duties,

³⁵ Jonny Gifford *et al*, *Rotten Apples, Bad Barrels and Sticky Situations: An Evidence Review of Unethical Workplace Behaviour*. London: Chartered Institute of Personnel and Development, 2019.

³⁶ *Change The Course: National Report on Sexual Assault and Sexual Harassment at Australian Universities*. Sydney: Australian Human Rights Commission, 2017.

³⁷ Katrina Marson, 'Consent a Low Bar: The Case for a Human Rights Approach to Relationships and Sexuality Education'. *Australian Journal of Human Rights* 2021.

caring and parental responsibilities may seem remote from high-profile allegations of sexual harassment in the High Court or Parliament. But they are not. They are intimately connected.

The problem, when expressed in these macro terms, can seem daunting. But we simply must start somewhere. To comprehensively address workplace sexual harassment, whether in law, politics or society generally, we need to unleash as many of these different initiatives, approaches and strategies as possible. Some will be extremely effective, some will be partly effective, some might have unintended consequences and in fact be detrimental. But there is no silver bullet. If we try and we try and we try—if we revisit, recalibrate and revise—and then go again, and again, ultimately we will see change. We are sadly all too well-informed about the nature, extent and impact of the problem. We have many ideas about potential solutions. Now is the time for action.

CONCLUSION: MAINTAINING MOMENTUM

In late 2018, while researching for the *Us Too?* report, I came across a reference in a journal article of an incident at a prestigious American law firm in the early 1980s. I was astounded – the article described senior members of the firm wanting to hold a ‘wet t-shirt’ competition for summer interns. ‘Reacting to in-house criticism,’ the paper explained, ‘the firm held a swimsuit competition instead. The winner, a third-year law student from Harvard, was offered a job at the firm’.³⁸ The journal article cited a *Wall Street Journal* report of the incident. Such was my disgust that I dug through the online archives to find the original reporting. ‘[The winner] has the body we’d like to see more of’, a partner of the law firm had told the newspaper at the time.³⁹ I could not get these words out of my head—a top-tier American law firm had not only held a degrading, sexist ‘competition’ for its junior staff, who were in a precious position wanting permanent employment and therefore unlikely to formally complain, but a senior member of the firm had even bragged about it to a national newspaper.

³⁸ Nina Burleigh and Stephanie Goldberg, ‘Breaking the Silence: Sexual Harassment in Law Firms’. *American Bar Association Journal* 75 1989, p.46.

³⁹ James Stewart, ‘Are Women Lawyers Discriminated Against at Large Law Firms?’. *Wall Street Journal*, 20 December 1983, p.1.

I retold this story in the opening paragraph of the introduction to the *Us Too?* report. I retold it to conclude every presentation I gave on the global engagement campaign, retelling it hundreds, perhaps a thousand times in total. I did this to underscore what I consider to be the most important point of the campaign for positive change in workplace culture. Change is not inevitable. We cannot take for granted that the present momentum will inexorably deliver the change we seek.

The swimsuit competition incident generated much uproar in the American legal profession. A few years later a major survey of female lawyers concluded that sexual harassment was widespread. In 1992, the domestic peak body, the American Bar Association, formally recognised that harassment was a 'serious problem' for the profession.⁴⁰ But while some progress was made, the results of the *Us Too?* research made clear that the progress had been insufficient. Four decades after the swimsuit incident and subsequent condemnation, sexual harassment remains pervasive in the legal profession. And so I told this story, again and again and again, to emphasise that we must do all we can to maintain momentum. Otherwise, there is a great risk that in four decades time we will look back on the findings against Dyson Heydon, or the powerful truth-telling of Brittany Higgins, and realise that we have not made the progress that was hoped. Change is not inevitable. But it is possible.

We must institutionalise the engines of change to ensure that these concerns are not forgotten. We must ensure that positive workplace culture is a top-priority for our leaders, in individual workplaces, in our courts, in our Parliament and in our Cabinet. There it must stay, embedded as a guiding principle. Otherwise, if it is allowed to slip down the agenda, there is every possibility that in decades to come we will look back forlornly on the reckoning of 2020 and 2021 in Australia and wonder why harassment remains pervasive. That is not a future we should accept – and to ensure it is not our future, we must maintain the present momentum.

⁴⁰ Pender, *Us Too?*, p. 12.

Problematic Working Conditions for Female Political Staffers: What Can Be Done?*

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* Double-blind reviewed article.

Abstract Many of the thousands of political staffers who work for federal Ministers, MPs and Senators in Australia are women. Parliamentarians' offices are important sites of women's political engagement and influence in Australia. Yet their employment is precarious and they can experience unacceptable levels of bullying and sexual harassment. This article explores the causes of problematic working conditions for staffers, which are both structural and cultural, based in formal rules and informal norms. It argues that while men and women are affected, there is an important gender dimension to the problems, which are accentuated for women. It uses interview and biographical data to shed light on the presence of women in political staff roles and their experiences at work. It suggests some possible solutions to the problems. None of these are straightforward and all face the issue of vested interests.

INTRODUCTION

In Australia, large numbers of staff are employed in political offices, working for Members of Parliament, Senators, Ministers and shadow Ministers, at both state and federal levels. In March 2021, there were 2,020 staff employed under the federal

Members of Parliament (Staff) Act (MOPS Act).¹ Many of them are women. There is a high turnover of staff in these positions, indicating there is a significant number of people who currently work, or have worked, as political staffers.² Yet we do not know the names of these people, and it is only recently that we have begun to hear their voices. The stories they tell are of poor working conditions, at times marred by sexual harassment and bullying. Finally, it appears they are being heard and something might be done.

When former staffers Rachele Miller and Brittany Higgins spoke publicly in 2020 and 2021 they were driven by anger at how they were treated and the fact no one was held accountable for what they experienced. They recounted a toxic culture, bullying, unfair treatment and sexual assault.³ Such stories are not unusual. Bullying and sexual harassment of political staff have been reported in other jurisdictions, suggesting it may be endemic to parliamentary workplaces and the causes may be structural and cultural. The White inquiry in the UK found MPs' staff experienced jokes and accepted workplace 'banter' that made people feel uncomfortable, bullying and sexual harassment, unwelcome sexual advances, sexual and sexist comments and derogatory comments about women.⁴ The Francis inquiry into the New Zealand Parliament found staff reported a bullying climate, command-and-control behaviours, unreasonably aggressive behaviour, shouting, abusive calls and texts, and belittling and character assassination in front of others. They also reported unwanted touching and sexual advances and sexual violence.⁵ *A Review of Harassment in the South Australian Parliament Workplace* reported unwelcome sexual behaviour such as sexually suggestive comments or jokes that made people feel offended, humiliated or

¹ Commonwealth of Australia, *Review of the Parliamentary Workplace: Responding to Serious Incidents*. Canberra: Department of Prime Minister and Cabinet, 2021, p 20.

² Senate Finance and Public Administration References Committee, *Staff employed under the Members of Parliament (Staff) Act 1984*, Canberra, 2003 p 11-12; Nicholas Horne, *The Members of Parliament (Staff) Act 1984 Framework and Employment Issues*. Parliamentary Library Research Paper, 4 August 2009, pp. 9-10.

³ 'Inside the Canberra Bubble'. Four Corners 9 November 2020; Samantha Maiden 'Parliament House Alleged Rape: How Brittany Higgins' Horror Night Unfolded' news.com.au 15 February 2021.

⁴ Gemma White, *Bullying and Harassment of MPs' Parliamentary Staff Independent Inquiry Report*. 2019.

⁵ Debbie Francis, *Independent External Review into Bullying and Harassment in the New Zealand Parliamentary Workplace, Final Report*, 2019.

intimidated, and leering, close physical proximity, and unwelcome touching.⁶ While men could also be subject to sexual harassment, all three inquiries found that most of the staff who reported experiencing it were women and most of those described as engaging in it were men.⁷ Despite this, it is rare that a gender lens is applied to the analysis of the workplace experiences of political staff. This paper, while considering fundamental causes and possible solutions, explores some of the gendered dimensions of the workplace problems faced by federal political staff.

As well as bullying and sexual harassment, inquiries also found female staff in parliamentary workplaces can face gender-based discrimination. In New Zealand, unconscious or actual bias against women and sexist behaviours were prevalent.⁸ In South Australia, discriminatory behaviour towards women was found to be commonplace.⁹ One of the few times this was recognised federally was in 2018 when Prime Minister Malcolm Turnbull referred to the ‘very serious issues about the culture ... of this Parliament’ and the need to create a workplace ‘where women are respected’, saying:

I think many women ... who work in this building understand very powerfully what I am saying ... I recognise that respect in workplaces is not entirely a gender issue, of course. But the truth is, as we know, most of the ministers, most of the bosses in this building are men and there is a real gender perspective here.¹⁰

The *Review of the Parliamentary Workplace* by Prime Minister and Cabinet’s Stephanie Foster, launched in response to the allegations by Brittany Higgins, focused on the policies and procedures needed to respond to what were described as ‘serious

⁶ South Australia Equal Opportunity Commission, *Review of Harassment in the South Australian Parliament Workplace*, February 2021.

⁷ Francis, *Bullying and Harassment in the New Zealand Parliamentary Workplace*, p. 53; White, *Bullying and Harassment of MPs’ Parliamentary Staff* p. 24; South Australian Equal Opportunity Commission, *Review of Harassment in the South Australian Parliament Workplace*, p. 23.

⁸ Francis, *Bullying and Harassment in the New Zealand Parliamentary Workplace*, p. 52.

⁹ South Australian Equal Opportunity Commission, *Review of Harassment in the South Australian Parliament Workplace*, pp. 26-28. Discrimination also occurred on other grounds such as age, marital status, sexual orientation and race.

¹⁰ Malcolm Turnbull, Press Conference, 15 February 2018. Accessed at: <https://www.malcolmturnbull.com.au/media/press-conference-15-february-2018>

incidents'. Her recommendations included improved support services for staff and an independent complaints mechanism.¹¹ While these are important and welcome initiatives, the deeper causes of the problems and the gendered context in which the problems arise are not discussed in the report. This paper argues that the problems caused by power differentials and lack of professionalism in the working culture are accentuated for female political staff. The gendered context in which they work must be considered.

The situation is not simple. Federally, staffers work for a variety of principals, subject to different forms of regulation and scrutiny—sometimes arbitrary, sometimes private, sometimes non-existent. Staff can be both the victims and perpetrators of poor conduct. Staff employed under the *Members of Parliament (Staff) Act 1984* (MOPS staff) may work as electorate officers for MPs and Senators, or as personal staff for Ministers, shadow Ministers, or other office holders. They are also found in many different spaces. The majority of MOPS staff work for parliamentarians in electorate offices, in small offices distant from Canberra, far from scrutiny and regulation, subject to the whims and demands of the MP or Senator who employs them. Electorate staff, who assist parliamentarians with their constituency work, represent 68 percent of all MOPS staff and are predominantly female.¹² The other large group of staffers work for Ministers in offices inside Parliament House, often away from home, in a building where the mix of long hours, alcohol and after work socialising breeds risky and unprofessional conduct.

There is a body of academic research and reports critical of MOPS employment frameworks and the regulation of staff behaviour, but it has not focused on the issue of staff welfare or gender. A 2003 Senate inquiry into MOPS staff noted the lack of accountability, weak management structure and poor regulation of staff employment. It made a number of recommendations, including that there be a code of conduct, better training and mandatory induction, but many of these recommendations were not implemented.¹³ Tiernan has been highly critical of the governance frameworks for

¹¹ Commonwealth of Australia, Review of the Parliamentary Workplace: Responding to Serious Incidents.

¹² Commonwealth of Australia, Review of the Parliamentary Workplace: Responding to Serious Incidents, p20; Senate, Answers to Questions on Notice Additional Estimates 2020–21 Finance Portfolio 23 March 2021 Senate Finance and Public Administration Legislation Committee, 2021

¹³ Senate Finance and Public Administration References Committee, *Staff employed under the Members of Parliament (Staff) Act 1984*.

MOPS employment, seeing the staffing system as having outgrown its regulatory environment. She has called for reform to address problems of training, performance management, accountability, and staff conduct.¹⁴ Ng argues that regulation of staff behaviour is inadequate, with no legal compulsion to adhere to rules of conduct.¹⁵ However, this research is mainly focused on integrity issues and regulating staff conduct in relation to officials. Oversight of staff behaviour is recommended to contain the unrestrained use of executive power, rather than to address the misconduct seen in bullying and sexual harassment. Tiernan argues that more robust governance of MOPS staff will improve the quality and integrity of advice that staff provide to Ministers. The adequacy of employment frameworks for protecting staff from misconduct by other staff or by parliamentarians is not the focus of this literature.

The research in this article draws on material obtained in November 2020–August 2021 from ten interviews with former staffers and six emails from current and former staffers detailing their experiences of bullying and sexual harassment in the workplace. These were largely unsolicited contacts made after an opinion piece was published about the bullying of political staffers in the *Sydney Morning Herald*. Ten of the staffers were female and six were male. Six of the 16 described experiencing sexual harassment while ten recounted instances of bullying. The research also draws on a biographical dataset of 1,275 federal ministerial staff from four Governments (2010–2017), using names in communication directories for 2010, 2013, 2014 and 2017.¹⁶

POLITICAL OFFICES AS GENDERED SPACES

Many studies have established that parliaments are male spaces, dominated not only by male actors, but by masculine ways of operating underpinned by formal rules and

¹⁴ Anne Tiernan, *Power Without Responsibility? Ministerial Staffers in Australian Governments from Whitlam to Howard*. Sydney: UNSW Press, 2007; Anne Tiernan and Patrick Weller, *Ministerial Staff: A Need for Transparency and Accountability?* Submission to the Senate Finance and Public Administration References Committee Inquiry into Staff Employed under the Members of Parliament Staff (MOPS) Act 2003.

¹⁵ Yee-Fui Ng, *The Rise of Political Advisors in the Westminster System*. London: Routledge, 2018, pp. 137–139.

¹⁶ For further details about the data collection, see Maria Maley, 'The Powers and Perils of Women in Ministers' Offices' in Katrina Lee-Koo and Zareh Ghazarian (eds), *Gender Politics: Navigating Political Leadership in Australia*. Sydney: UNSW Press, 2021. The staff in the dataset have the following titles: assistant adviser, adviser, senior adviser, principal adviser, research officer, policy adviser, senior policy adviser, chief economist, deputy chief of staff or chief of staff.

informal norms and practices.¹⁷ Yet while Australian parliaments have traditionally been, and still are, spaces dominated by men, the political office is a space that has always been heavily populated by women. Historically this was because they occupied the administrative and clerical positions supporting parliamentarians and Ministers.¹⁸ In 2021, women comprise the majority of staff employed under the MOPS Act (57 percent), and as many as 61 percent of electorate office staff are female.¹⁹ Women are more likely to be found working in political offices than sitting in the federal Parliament or in the Cabinet. In December 2020, women comprised 37.9 percent of federal parliamentarians and 27.3 percent of federal Cabinet Ministers.²⁰

In this sense, political offices are important sites of women's political engagement and influence in Australia. Women are significantly present in a leadership space where important decisions are made and where politicians and citizens interact. Their work can be impactful, though invisible. The status of staffers as auxiliaries to powerful actors resonates with the traditional female role of the 'hand maiden'—an assistant who plays a subsidiary role to the principal, sublimating her own ambitions to advance the interests of the power holder. The supporting and ancillary role of the staffer means that women can occupy these roles without disrupting traditional power relations.²¹ Being hidden from public view, the political office is a space where women may assume powerful roles in political life, free from the scrutiny and criticism often faced by female parliamentarians. Yet while this space is open to women it remains

¹⁷ Mary Crawford and Barbara Pini, 'The Australian Parliament: A Gendered Organisation'. *Parliamentary Affairs* 64, 2011, pp. 82–105; Karen Ross, 'Women's place in 'Male' Space: Gender and Effect in Parliamentary Contexts'. *Parliamentary Affairs* 55 2002, pp. 189–201; Josefina Erikson and Cecilia Josefsson 'The Legislature as a Gendered Workplace: Exploring Members of Parliament's Experiences of Working in the Swedish Parliament'. *International Political Science Review* 40(2) 2019, pp.197–214; Cheryl Collier and Tracey Raney 'Understanding Sexism and Sexual Harassment in Politics: A Comparison of Westminster Parliaments in Australia, the United Kingdom and Canada'. *Social Politics* 25, 2018, pp. 432–455.

¹⁸ Roy Forward, 'Ministerial Staff of the Australian Government 1972–1974: A Survey', in Roger Wettenhall and Martin Painter (eds), *The First Thousand days of Labor*, Vol II. Canberra: Canberra College of Advanced Education, 1975; James Walter, *The Ministers Minders*. Melbourne: Oxford University Press, 1984; Marija Taflaga and Matthew Kerby, 'Who Does What Work in a Minister's Office?'. *Political Studies* 68(2) 2020, pp. 463–485.

¹⁹ Commonwealth of Australia, *Review of the Parliamentary Workplace: Responding to Serious Incidents*, p. 20; Senate, *Answers to Questions on Notice*.

²⁰ Anna Hough, 'Women in Leadership: International Women's Day 2021' *Parliamentary Library FlagPost* 5 March 2021.

²¹ Maley, 'The Powers and Perils of Women in Ministers' Offices'.

problematic. There are strong limitations on the power staffers wield and their position is an inherently vulnerable one. As is evident from reports of bullying and sexual harassment, they are subject to masculine hierarchies and cultures.

WOMEN IN ELECTORATE OFFICES AND MINISTERS' OFFICES

Women in electorate offices

There are no academic studies of electorate office staff in Australia and more research is needed on the work they do and the issues they face in their employment. However, we do know they are a workforce dominated by women: in 2021 61.4 percent of federal electorate office staff were female. Women also dominate the position in parliamentarians' offices with the highest classification (Electorate officer C): 61.8 percent of staff at this level are female.²²

Women in Ministers' offices

Women have a strong presence in key positions in federal Ministers' offices, but distinct recruitment patterns. In March 2021, 45 percent of MOPS staff working in Ministers' offices were female.²³ Biographical data was collected about 1,275 ministerial staff who worked in federal Ministers' offices between 2010 and 2017, in the Rudd, Gillard, Abbott and Turnbull Governments. By excluding the administrative and media staff, it was possible to determine how many women worked in the political and policy advisory positions and as chiefs of staff. While they did not reach parity with men, 43 percent of advisory staff in these years were women. In the senior positions—heading up offices—women were underrepresented, comprising 35 percent of chiefs of staff to Cabinet Ministers. However, women were equally likely as men to lead lower status offices, as 49 percent of chiefs of staff to junior Ministers and parliamentary secretaries were female.²⁴

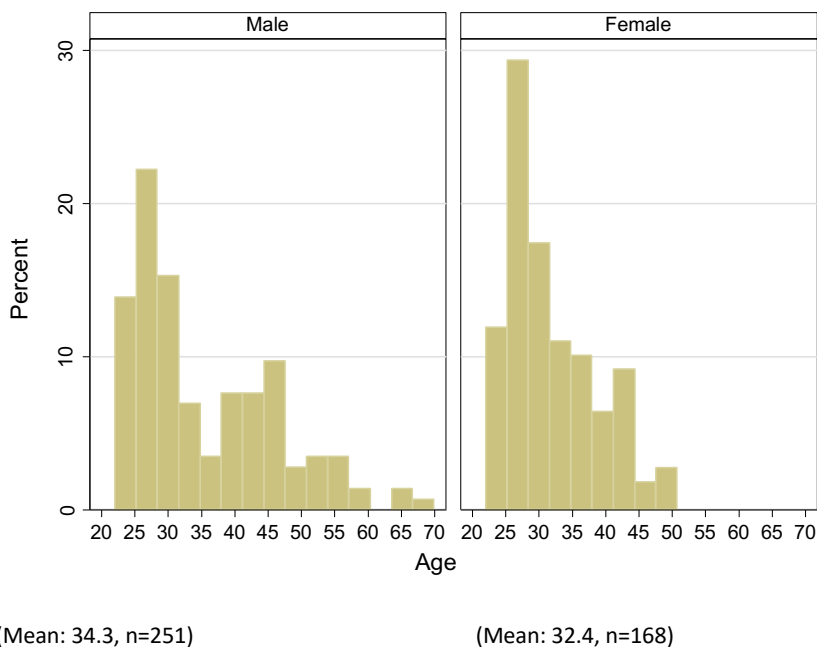
²² Senate, Answers to Questions on Notice.

²³ Senate, Answers to Questions on Notice.

²⁴ Maley, 'The Powers and Perils of Women in Ministers' Offices', pp. 86–87.

Female staffers in the study had a different age profile to male advisers and chiefs of staff (Figure 1). More women were recruited at younger ages, mostly under the age of 30, and few were recruited after 40. By contrast, men kept being recruited in large numbers into their 40s and beyond. At ages when men are being selected for senior roles, it is possible that women find such demanding and unpredictable work incompatible with family responsibilities.²⁵

Figure 1. Age when recruited as an adviser or chief of staff (2010–2017)



There may be several reasons for the age difference, but the overall result is that female advisers in Ministers' offices tend to be younger than the men. They are also generally younger than the Ministers they work for. The relative youth and more junior status of female advisers reveals that though women populate political offices in greater numbers than men, it is not a female dominated space. The differences in age

²⁵ Melinda Ritchie and Hye Young You, 'Women's Advancement in Politics: Evidence from Congressional Staff'. *Journal of Politics* 83(2) 202, pp. 421–438.

and seniority may play a role in the exploitative consensual sexual relationships that are reported between senior male staffers and junior young women.²⁶

CAUSES OF A PROBLEMATIC WORK ENVIRONMENT

Common themes emerge in inquiries, suggesting the problems staffers face are endemic to political workplaces and employment relationships. The causes are both structural and cultural, and include formal rules and informal norms and practices. While these dynamics are present for all MOPS staff, their effects are particularly adverse for women.

Formal rules

The dynamic of dominance/submission and power/powerlessness is hardwired into the employment relationship for political staff. This is because the MOPS Act frames it as personal employment, and does not define what the work of staffers should be. The Act empowers the parliamentarian to define what work is to be done. Serving their needs and demands becomes the goal of every office. One electorate officer struggled with her job because she was given no job description by her MP. This meant the MP could always ask her to do more and could always criticise her for not meeting expectations. She said 'I just kept thinking, if I work harder, if I do more, she will be happy. But she was never happy, it was never enough'.²⁷ A Minister's diary manager recalled being yelled at by her Minister and 'slammed' in front of other staff, on an 'incessant' basis. This drove her to work harder and harder to avoid criticism, and a health crisis.²⁸ The untrammelled power of the parliamentarian in the relationship is buttressed by the fact that under the Act they are the only party who can take action regarding a staffer's employment, even where there is misconduct in the office.

²⁶ See Anna Jabour, 'Former Political Staffer Anna Jabour Speaks of Sexual Misconduct in Parliament House'. *news.com.au* 10 March 2021.

²⁷ Interview, November 2020.

²⁸ Interview, February 2021.

Studies have found that significant power disparities and climates which permit incivility are risk factors for workplace harassment.²⁹

There is a paucity of rules regulating the work environment. Unlike in other jurisdictions, there is no code of conduct for federal MPs and Senators or their staff.³⁰ The standards of conduct for Ministers and ministerial staff are articulated but not legislated, nor enforced formally or publicly. They do not prohibit sexual harassment and bullying. However, Ministers may not employ 'close relatives and partners' in their offices and must not engage in sexual relations with their staff.³¹ The Prime Minister's Office and the Government Staffing Committee are tasked with implementing the standards of conduct for ministerial staff; however, the processes of inquiry appear arbitrary and the operation of the Committee is secret.

There are extreme differences in the tenure of political staff and parliamentarians. MOPS staff are in a vulnerable position, with virtually no employment security beyond the general protections of employment law. Their employment ceases automatically when the MP, Senator or Minister leaves or changes their job or dies. Their employment can also be terminated at any time by the parliamentarian by notice in writing. Staff can be sacked if they 'lose the confidence' of their employer.³² Yet parliamentarians appear to be 'untouchable' in that they are elected by voters, and their continued tenure is the main interest of the political parties they represent. Ministers enjoy tenure at the pleasure of the Prime Minister, yet this power is exercised using political calculation. The anger felt by women interviewed was largely driven by the lack of accountability of parliamentarians for their poor conduct and the lack of consequences they faced when their misconduct was well known. Their precarious tenure means female staffers face high stakes decisions about making complaints and invoking the workplace protections that exist for them. One woman who did complain

²⁹ South Australian Equal Opportunity Commission, *Review of Harassment in the South Australian Parliament Workplace*, pp. 49-58.

³⁰ Electorate officers employed by ministers are covered by the Standards for Ministerial Staff but electorate officers working for MPs and Senators do not have a code of conduct.

³¹ Statement of Ministerial Standards. Accessed at:

<https://www.pmc.gov.au/sites/default/files/publications/statement-ministerial-standards-3.pdf>; Statement of Standards for Ministerial Staff. Accessed at: <https://www.smos.gov.au/statement-standards-ministerial-staff>

³² Department of Finance 'Ceasing Employment: Termination by the Employing Parliamentarian', 2021. Accessed at: <https://maps.finance.gov.au/pay-and-employment/mops-act-employment/ceasing-employment>

commented: 'At the end of the day, if your behaviour threatens a politician, they will sack you and cut you out. The government is always acting to protect the politician and the party'.³³

Informal norms and practices

One of the major problems for staffers is the definition of political offices as private spaces. Ministerial advisers are designated as 'personal staff' and Ministers refer to their 'private offices'. The identities and conduct of MOPS staff are seen as part of a private world, not a public world. This can breed a sense of entitlement amongst parliamentarians to treat staff as they wish and to act with impunity, outside rules and regulations. It also promotes secrecy, as what happens in each office is framed as only the concern of the employing principal. Yet these are publicly-funded positions and MOPS staff are Commonwealth employees; staffers undertake public, not private, work and are subject to general employment laws. This is particularly a problem in Australia where the names of MOPS staff are kept secret, by agreement of all political parties. This began in 2002 when the names of ministerial staff were removed from the Commonwealth Government Directory. A Communications Directory containing the names of political staff working inside Parliament House was discontinued in 2010. Now each political party holds its own telephone directory which must not be distributed outside the party. This extreme secrecy is quite different to the openness about the identities of staffers seen in many other countries such as the UK or Canada.

This secrecy contributes to the acceptance and normalisation of poor conduct. Senior staff and politicians can be complicit in covering up misconduct by known serial offenders. One female staffer wrote that 'the minister's groping was awful but his bullying and abuse of power was much worse. His chiefs of staff were dedicated to ensuring no one else found out'.³⁴ Being shrouded in secrecy, inside a 'private' office, staffers have no public voice to raise concerns about their work conditions. Women who experience sexual harassment are expected to remain loyally silent.

Another norm that contributes to the powerlessness staffers experience is the constant reminder they are given that 'it is a privilege to work here'. Implicitly encoded in their

³³ Interview, December 2020.

³⁴ Personal communication, January 2021.

working status is the idea they did not gain the job through a merit-based process, so they should not expect to be treated fairly. Merit and objective standards do not seem to have currency in a world underpinned by patronage. Some women reported that senior positions are often not advertised, people are 'tapped on the shoulder' for promotions, and senior jobs are filled through private contacts and networks. Women reported feeling outside these largely male networks, often not being aware that senior jobs were vacant until they heard a male colleague was promoted.³⁵ Patronage and 'boys club' networks could make it hard for them to thrive in their careers. Some also said it was hard to complain that they were not sacked on the basis of merit, when they were not employed on a merit basis. The culture of patronage undermines norms of professionalism.

There is a serious lack of professionalism in the culture of some political offices, with staffers describing a 'highly sexualised atmosphere' and the constant presence of alcohol. There is a hard-drinking culture, in which after-hours bar hopping is seen as a way to wind down and deal with stressful days. One staffer said she kept drinking on some nights to ensure her boss stayed out of trouble, helping him into a taxi at the end of the night.³⁶ Lobbying events in Parliament House and other networking opportunities are always accompanied by free alcohol, creating risky and often unpleasant situations for female staff. Some didn't complain about unwelcome sexual advances because the perpetrator 'was a nice person when not drunk'.³⁷ A young male staffer complained about sexual harassment while socialising, but the senior male staffers involved 'laughed it off as a joke'.³⁸ He observed his female colleagues experience worse harassment but, instead of complaining, they left events early or managed their attendances to avoid interactions with certain people or potentially compromising situations.

A final norm which disadvantages female staffers in their ability to call out misconduct is found in the nature of their career patterns. When they are no longer needed or deemed useful to the party or the parliamentarian, they can feel 'cast aside'. This is because there is no natural progression out of an MP's office into another career.

³⁵ Interview, July 2021.

³⁶ Interview, December 2020.

³⁷ Interview, February 2021.

³⁸ Interview, July 2021.

Some struggle to find their footing in the job market. Others find their experience is a very valuable commodity, an asset to public relations firms, lobby groups and businesses. But they rely on the reputation and contacts they have back in politicians' offices. One former senior adviser said 'without a personal reference from your office it would be very, very, very difficult to land somewhere after politics'.³⁹ This means women cannot afford to cruel these relationships by making complaints or leaving under a cloud of conflict, which prevents them raising concerns. One woman observed that when her female colleagues complained about harassment or bullying the victims were themselves disciplined, ostracised or denied promotions, and then resigned.⁴⁰ This can explain why someone might tolerate sustained bullying by an MP, as to leave the job means leaving the career entirely, creating a career 'dead-end'. A woman who worked for ten years in the offices of Ministers, shadow Ministers and MPs had to start again at the lowest rung of the public service when she left her MP's office. She had experienced serious bullying but did not complain. She said of her ten-year staffer career, 'I regret it immensely'.⁴¹

WHAT CAN BE DONE?

Addressing some of these factors may improve the professional culture of political offices, making it safer and fairer for women.

The untrammelled power and lack of accountability of parliamentarians in the employment relationship can be addressed by establishing powers in the MOPS Act, to mandate actions and establish consequences if those actions do not occur. Currently parliamentarians employ staff 'in accordance with arrangements approved by the Prime Minister' and 'subject to conditions as are determined by the Prime Minister'.⁴² Yet the Prime Minister has limited authority over legislators; and it means Parliament itself has no role in setting conditions for its workforce or in oversight of its Members as employers. An independent parliamentary office holder or a cross-party parliamentary staffing committee could be empowered under the Act to mandate

³⁹ Personal communication, August 2021.

⁴⁰ Interview, July 2021.

⁴¹ Interview, November 2020.

⁴² *MOPS Act* s 13(2) and s 20(2).

conditions of employment, such as that no staffer can be employed without undergoing training in prevention of bullying and harassment, or that no MP can employ staff without undergoing such training. Parliamentarians could lose the entitlement to employ staff under the Act, should they breach bullying and harassment policies or not take action on problems of misconduct in their office. Such an approach would need cross-party commitment to the wellbeing of staff for the use of parliamentary authority in this way.

Standards of conduct cannot be established, and people cannot be held accountable for their behaviour, without rules. Codes of conduct focused on eliminating bullying and sexual harassment must be created for all those who work in Parliament and political offices, similar to those in the UK, Canada and New Zealand. The Government has now created the Parliamentary Workplace Support Service, an independent body to which staffers can take 'serious' complaints.⁴³ However, such a body cannot operate effectively without codes of conduct that bind parliamentarians, Ministers and staffers to standards of workplace behaviour.

The critical issue then becomes enforcement. In some countries cross-party committees examine the conduct of parliamentarians. In the UK, an Independent Expert Panel (with no parliamentarian members) makes determinations about whether MPs have breached their behaviour code, and recommends sanctions. This avoids the situation of parliamentarians judging their peers, and sends the message that the conduct of parliamentarians is a matter for the whole community not just those who are in Parliament.⁴⁴

Broadening the range of players involved in staffers' employment will give them greater protections. In other countries ministerial staff are employed as temporary civil servants inside the department their Minister leads, framing their employment as a type of public sector work. In the UK, for example, Special Advisers are employed within departments, and complaints by staffers therefore go not only to their employing Minister but also to the head of the department they work in, as well as the Primer Minister's chief adviser.

⁴³ Accessed at: <https://pwss.gov.au/>

⁴⁴ Accessed at: <https://www.Parliament.uk/mps-lords-and-offices/standards-and-financial-interests/independent-expert-panel/>

Another way of broadening the basis of staffers' employment and assisting their careers, would be to employ them as a group of workers serving a political party, not just an individual MP, Senator or Minister. This would frame them as resources of the party, rather than a private resource of an individual politician. While this understanding may informally exist to some extent, formalising it would force parties to take greater responsibility for careers of their female staffers, and how they are treated. It might strengthen their tenure, enabling redeployment, and embolden parties to take action against MPs who are known to treat their staff poorly. The larger political parties would then be required to report on their workforce profiles under the *Workplace Gender Equality Act 2012*, since they would be employers of more than 100 staff. Registration of political parties could be linked to evidence of good employment practices and gender equity policies.

A major change is needed in the way MOPS staff are seen, bringing them out of the 'private' sphere and into the public sphere. This does not mean that they should become public actors, but as public sector employees their work must be subject to broader scrutiny than at present. The conduct of ministerial staff should not be a matter for private examination by the Prime Minister's Office or a shadowy internal committee whose work is kept secret. A cross-party standards committee could confidentially examine the work of staffers and promote standards of conduct. The current secrecy around them, in which all parties are complicit, is corrosive. Rather than protecting them, it enables the coverup of poor conduct.

Staffers may always face difficulties in making complaints and therefore prevention of misconduct is their most effective protection. Female staffers in the study not only call for independent bodies to handle their complaints but for proactive scrutiny of political offices. One woman said 'I want to know, and I want my MP to know, that someone is watching what they do inside the office'.⁴⁵ Regular audits of offices or surveys of staff by an independent body may be one answer. Making chiefs of staff and office managers responsible for professional practices within offices, and required to report regularly and publicly on this, might be another.

Female and male staffers said it made a difference to the workplace culture when there were women in senior positions in an office. It could restrain the blokey banter and at

⁴⁵ Interview, November 2020.

times openly sexist atmosphere.⁴⁶ Former female staffers have called for open recruitment and gender quotas for senior staff, suggesting the presence of more senior women would create a safer workplace but also ‘an inclusive and positive culture where women can thrive’.⁴⁷ They also recommend there be alcohol-free networking events.⁴⁸ Offering flexible work opportunities, currently rare, may help women to sustain staff careers through times when they have heavy family commitments. By increasing the diversity of people who occupy senior political staff jobs, these measures may be powerful in changing the culture of parliamentary workplaces from within.

There is an important gender dimension to the problems faced by political staff at work. The structural and cultural factors that lead to problematic working conditions affect all political staff, but are especially impactful for women. It means they work in environments which contain many of the risk factors for sexual harassment. The culture of patronage can exclude and disadvantage them. The lack of professionalism which tolerates sexist comments and unwelcome sexual advances in work settings creates an environment which can be particularly toxic for women. They can face gender-based discrimination. The gendered nature of the problems must be recognised.

Parliamentary offices are an important site of women’s political engagement and influence in Australia. Women have long occupied the political office space but have been subject to masculine hierarchies and cultures. Improving the culture of parliamentary work has the potential to increase the participation and impact of women in public life. It is only when political offices cease to be seen purely as a ‘private resource’ that more professional behaviour and scrutiny of conduct can occur. However, there are vested interests amongst politicians in keeping this space private, not to protect staff but to protect their own power. The broader community interest in good conduct and safe working conditions needs to be affirmed beyond the self-interest of politicians.

⁴⁶ Interview, July 2021; interview, July 2021.

⁴⁷ Elizabeth Reid Network, ‘Executive Summary’ *ERN Submission to the Independent Review into Commonwealth Parliamentary Workplaces*, 2021, p. 2.

⁴⁸ Elizabeth Reid Network, ‘Executive Summary’, p. 2.

The Missing Cohort: Women in Local Government*

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Abstract Australia historically lags other democracies in its gender representation in legislative bodies. While Victorian councils achieved a record 43.8 per cent of women elected to councils in 2020, outperforming most federal and state parliamentary tiers, they were still shy of the Victorian Government's local government target of gender parity by 2025. This article uses mixed methods to investigate women's experiences in running for Victorian local government and gender differences in electoral success and experience as a councillor. The findings reveal a positive story about women's electability, despite fewer women running for office, their success rate is higher than men's. However, the data also shows a missing cohort of younger women. Paid full-time work, childrearing and household responsibilities are key barriers to elected office for younger women. This study contributes to the theme of 'Parliament as a Gendered Workplace' and makes recommendations to narrow the gender gap in politics.

INTRODUCTION

Women's representation in legislatures is an important dimension of justice and equality. It is the human right to participate in public life on an equal basis to men, free of direct or indirect discrimination. Yet, women rarely hold equal representation in elected governments. In Australia, only a third (31.1 per cent) of House of

Representative seats are occupied by women. Australia is currently ranked 50th in the world for women's parliamentary representation in the lower house, a significant fall from 15th in 1999.¹ The Australian Senate has 51.3 per cent women's representation.² Further, even where women's parliamentary presence has significantly increased, they may still find they are unable to perform their representative roles on an equal basis due to a gendered workplace culture.³

One bright spot for women's representation globally is local government, which has achieved higher rates of women's representation than national parliaments, generally.⁴ The picture of women's representation at the local level in Australia is more mixed. Women constitute 37.9 per cent of federal parliamentarians compared to 35 per cent of women elected in local government nation-wide.⁵

The latest election figures show Victorian local government outperforming the national averages of women's representation. Women councillors represent 43.8 per cent of Victorian councillors, compared to nationwide averages of women's parliamentary representation (38.6 per cent) and of women in local government (35 per cent).⁶ While this is a positive step toward gender parity, generally speaking local government holds less power, garners less media attention and is often overlooked as a site for women's political participation. This omission is deeply problematic as local government plays a critical role in local communities and can be a pipeline into state and federal

¹ Inter-Parliamentary Union, 'Women in Politics: 2019'. Accessed at: <https://www.ipu.org/resources/publications/infographics/2019-03/women-in-politics-2019>.

² Proportional representation electoral systems tend to have higher numbers of women elected compared to other systems.

³ Marian Sawyer, 'Dealing with Toxic Parliaments: Lessons from Elsewhere'. *Australasian Parliamentary Review* 36(1) 2021, p. 22.

⁴ Ionica Berevoescu and Julie Ballington, 'A Global Comparative Study on Women's Representation in Local Government'. International Political Science Association, 2020. Accessed at: <https://www.ipsa.org/wc/paper/global-comparative-study-womens-representation-local-government>.

⁵ State Government of Victoria, 'Gender Equality in Local Government', 2021. Accessed at <https://www.localgovernment.vic.gov.au/our-programs/gender-equity>; 5050 Vision, 'The Case for Women in Local Government', 2019. Accessed at <https://www.5050vision.com.au/case-for-women-in-local-government.html>.

⁶ Anna Hough, 'Composition of Australian Parliaments by Party and Gender: A Quick Guide'. 2021. Accessed at https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp2021/Quick_Guides/CompositionPartyGender.

parliaments.⁷ Understanding women's experiences at the local level is crucial to mitigating the barriers to equal gender representation at all levels of government. This article aims to contribute more broadly to scholarship that examines Parliament as a gendered workplace by highlighting a potentially detrimental flow-on effect if gender parity is not achieved at the local level. We use Victoria as a case study to understand barriers to women's equality in local politics.

This study combines innovative survey data of Victorian local government candidates in 76 council elections in October 2020 with councillor survey data in December 2020 drawn from those who were subsequently elected and VEC data. Notably, we find a missing cohort of young women in their prime reproductive years. To better understand factors that may limit younger women's political representation, we apply role strain theory to investigate whether the demands of and strain associated with balancing competing roles limits younger women's ability to run for local government.⁸

To shed light on the experiences of women in this 'missing' group, we interviewed 10 women who were interested in local politics, but hesitated in nominating to run in 2020. This allowed us to examine what factors may have limited their capacity to seek election to represent their community. Importantly, we also find from Victorian Electoral Commission (VEC) election result data that when women do run, they are more likely to succeed than men. Thus, we recommend a range of policy initiatives aimed at alleviating the role strain associated with balancing other work and caregiving demands to promote women's representation in local government and to lay a pathway into the state and federal tiers of Parliament.

THE IMPORTANCE OF WOMEN'S REPRESENTATION IN LOCAL GOVERNMENT

Notwithstanding compelling normative reasons to close the gender gap, there are also strong economic and governance arguments for gender parity. A McKinsey Global Institute report estimated that \$12 trillion could be added to global GDP by 2025 by

⁷ Ana Weeks and Lisa Baldez, 'Quotas and Qualifications: The Impact of Gender Quota Laws on the Qualifications of Legislators in the Italian Parliament'. *European Political Science Review* 7(1) 2015, pp.119-144.

⁸ William Goode, 'A Theory of Role Strain'. *American Sociological Review* 25(4) 1960, pp. 483-496.

closing the gender gap in public, private and social sectors.⁹ It is also estimated that gender equality would boost Australia's GDP by 11 per cent and the economy would gain \$8 billion if women transitioned from tertiary education into the workforce at the same rate as men.¹⁰ Other studies find that increasing the numbers of women can alter the culture of parliamentary workplaces. For example, one study found women take their elected responsibilities very seriously and have lower levels of parliamentary absenteeism than men.¹¹ Further, parliaments with higher ratios of women to men recorded lower levels of corruption than those with fewer women.¹²

Researchers also find that there is strong public support for women politicians across the main parties in Australia, yet, low rates of women's participation remain in place.¹³ This underrepresentation of women is true for both of Australia's major party groupings: the centre-left Australian Labor Party (ALP) and the centre-right Liberal and National parties (the Coalition). While the ALP does have party quotas and has achieved 48 per cent women's representation in the federal lower house, the Coalition offers a stark example of women's underrepresentation. It has fewer women in the federal Parliament (20 per cent) than it did more than 20 years ago (25 per cent) during the Howard Government's second term (2001-2004).¹⁴ Presently, neither Coalition partners support gender quotas. The Liberal Party has a voluntary target to achieve gender parity by 2025.¹⁵ However, the Coalition does not have adequate numbers of

⁹ Jonathon Woetzel, Ann Madgavkar, et al., 'How Advancing Women's Equality Can Add \$12 Trillion to Global Growth'. McKinsey Global Institute, 2015. Accessed at: <https://www.mckinsey.com/featured-insights/employment-and-growth/how-advancing-womens-equality-can-add-12-trillion-to-global-growth#>.

¹⁰ State Government of Victoria, 'The Benefits of Gender Equality'. Accessed at <https://www.vic.gov.au/benefits-gender-equality>

¹¹ Weeks and Baldez, 'Quotas and qualifications'.

¹² Soren Holmberg and Bo Rothstein, *Good Government: The Relevance of Political Science*. Cheltenham: Edward Elgar Publishing, 2021, p. 240.

¹³ Andrea Carson, Leah Ruppner, and Jenny Lewis, 'Race to the Top: Using Experiments to Understand Gender Bias towards Female Politicians'. *Australian Journal of Political Science* 54(4) 2018, pp. 439-455; Ferran Martinez i Coma and Duncan McDonnell, 'Australian Parties, Not Voters, Drive Under-Representation of Women'. *Parliamentary Affairs* 2021, pp. 3, 16.

¹⁴ Matt Martino, 'Does Labor Have Twice the Number of Women the Liberals Have in Parliament and on the Frontbench?'. ABC News, 20 February 2019. Accessed at <https://www.abc.net.au/news/2019-02-07/fact-check-does-labor-have-twice-number-of-frontbench-women-/10696844>.

¹⁵ Elly Duncan and Julia Baird, 'Leaked Liberal Report Shows Concerns about Women and Culture in the Party Were Raised as Early as 2015'. ABC News, 8 April 2021. Accessed at <https://www.abc.net.au/news/2021-04-08/leaked-liberal-party-report-shows-ongoing-concerns/13292160>.

women politicians coming through the pipeline to likely meet its approaching target. As local governments can be important feeders into state and national representation,¹⁶ and women's underrepresentation at the local level has been found to contribute to women's continued lack of parity in state and national parliaments,¹⁷ it is important to consider how women experience their roles as politicians in local governments in Australia.

While women are underrepresented in general in representative institutions, it also needs to be acknowledged that women's representation varies by age and other characteristics. Understanding representation across the life-course of women is important both for descriptive and substantive representative and has gendered implications for the pipeline into other levels of political representation.

Women have been found to draw upon their lived experiences to inform their policy platforms.¹⁸ This means that women's representation across the life-course is critical to inform the policy needs of young, middle and older-aged women. Yet international and local studies show women's representation in local government tilts towards middle ages (40-59): representation is lower for younger women and those aged over 65.¹⁹ Increasing the number of younger women in elected office is critical for descriptive representation and for drawing upon lived experiences to create effective legislation for women (substantive representation).

There may be other benefits for increasing women's representation at the local level. Local government is cited by Australian politicians as a useful training ground for representation in state and federal tiers of government.²⁰ If men have larger representation at younger ages and thus are building political experience, it follows that it will remain difficult to achieve gender parity via a pipeline from local government

¹⁶ Melody Crowder-Meyer and Benjamin Lauderdale, 'A Partisan Gap in the Supply of Female Potential Candidates in the United States'. *Research and Politics* 1(1) 2014.

¹⁷ Mirya Holman, 'Women in Local Government: What We Know and Where We Go from Here'. *State and Local Government Review* 49(4) 2017, pp. 285-296.

¹⁸ Iris Young, *Inclusion and Democracy*. Oxford: Oxford University Press, 2000.

¹⁹ Berevoescu and Ballington, *A Global Comparative Study*, p.10.

²⁰ Lyndon Megarrity, 'Local Government and the Commonwealth: An Evolving Relationship'. Parliament of Australia, 2011. Accessed at:

https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1011/11RP10.

into state and federal parliaments as well. Thus, equalizing gender participation in local government across all ages is critical for equal representation at that governing level, but it may also improve gender representation in other legislative tiers and help redress some of the issues related to Parliament as a gendered workplace.

The Victorian Government has recognised the importance of gender parity in local government. It promotes an inclusive gender culture through its 'Safe and Strong' gender equality strategy that sets a target of 50 per cent women's representation by 2025.²¹ This commitment has been supported with mandatory candidate training and funding through the major local government representative bodies, the Victorian Local Governance Association (VLGA) and the Municipal Association Victoria (MAV), to attract more women to local government. If there are not adequate numbers of women standing for council elections, these goals will be difficult to achieve. There is little recent evidence for understanding gender barriers faced by Australian local government candidates, and even less focused on Victoria.²² This research aims to address this gap and to make recommendations on narrowing the gender gap in local politics.

UNDERSTANDING THE BARRIERS TO WOMEN'S ENTRY TO LOCAL GOVERNMENT

To understand gender barriers to women's representation in local government, we apply a role strain perspective. The theory posits that individuals hold a range of roles that have associated norms, expectations and demands. Individuals can add new roles into their role set that vary across these dimensions. Intense roles are those that place onerous demands and foster role overload (for example, demands of a role exceed capacity). Conflicting roles are those whereby demands are difficult to combine with

²¹ Victorian State Government, 'Safe and Strong: A Victorian Gender Equality Strategy'. Accessed at <https://www.vic.gov.au/safe-and-strong-victorian-gender-equality>.

²² Exceptions include Ruth Henig and Baroness Henig, *Women and Political Power: Europe Since 1945*. London: Routledge, 2001; Judy McGregor and Karen Webster, 'Women's Local Government Representation in Auckland: Does Size Matter?'. *Commonwealth Journal of Local Governance* 20 2017, pp. 1-20; Barbara Pini and Paula McDonald (eds.), *Women and Representation in Local Government: International Case Studies*. Abingdon: Routledge, 2011; Anne Stevens, *Women, Power and Politics*. Basingstoke: Palgrave Macmillan, 2007; Amanda Sinclair, Margaret Bowman, and Lynne Strahan, *Getting the Numbers: Women in Local Government*. Melbourne: Hargreen, 1987.

other roles. Women often hold intense and conflicting roles that trigger the stress process, leading to inter-role conflict, burnout and exhaustion.²³ The birth of a child provides a powerful example of how a new role triggers the stress process model. The role of mother brings social norms and expectations of time intensive, child-centred, one-on-one demands that often contribute to role overload, stress and strain.²⁴ A breadth of existing research shows mothers are most likely to report inter-role conflict and exit employment in response to the intense demands of combining childrearing with paid employment.²⁵

We apply role strain theory to understand the experiences of women in local government. Being a local councillor adds a new role into one's role set that imposes demands, norms and expectations which may foster role overload and inter-role conflict for women combining local government with motherhood and employment. Past studies on Australian local government found women representatives face a disproportionate burden of family responsibilities compared to their male counterparts.²⁶ Conroy found that the non-standard hours required of a local councillor made it especially difficult for women to accommodate political representation in the absence of family support.²⁷

Because the local government representative role is public facing, community oriented and subject to public scrutiny and accountability, we hypothesize it is an intense role that triggers stress, strain and overload. Further, we expect combining the role of councillor with that of mother or caregiver without adequate supports will engender inter-role strain. We expect these consequences to be particularly damaging to young women who are often also enacting the role of 'good' worker and mother, meaning

²³ Laura Poms, Lila Fleming, and Kathryn Jacobsen, 'Work-Family Conflict, Stress, and Physical and Mental Health: A Model for Understanding Barriers to and Opportunities for Women's Well-Being at Home and in the Workplace'. *World Medical and Health Policy* 8(4) 2016, pp. 444-457

²⁴ Maureen Perry-Jenkins, Abbie Goldberg, Courtney Pierce, and Aline Sayer, 'Shift Work, Role Overload, and the Transition to Parenthood'. *Journal of Marriage and Family* 69(1) 2007, pp. 123-138; Janeen Baxter, Sandra Buchler, Francisco Perales, and Mark Western, 'A Life-Changing Event: First Births and Men's and Women's Attitudes to Mothering and Gender Divisions of Labor'. *Social Forces* 93(3) 2015, pp. 989-1014.

²⁵ Shira Offer, 'The Cost of Thinking about Work and Family: Mental Labor, Work-Family Spillover, and Gender Inequality among Parents in Dual-Earner Families'. *Sociological Forum*, 29(4) 2014, pp. 916-936.

²⁶ Pini and McDonald (eds), *Women and Representation in Local Government*.

²⁷ Denise Conroy, 'Gendering Local Government Amalgamations', in Barbara Pini and Paula McDonald (eds), *Women and Representation in Local Government*, pp. 161-178.

they are simultaneously building careers and families under intense demands. As a consequence of these competing roles, we expect young women to be less likely to put their hand up to run for elected office and to report greater role overload, inter-role conflict, stress and strain when elected.

Existing research lends preliminary evidence to these role strain arguments in elected politics. Research from the UK and Canada suggests that one factor pulling women into local government compared to other tiers is the practicality of the location of local governance which means less travelling time to better integrate work and family life.²⁸ However, this assumption is contested.²⁹ Local government can be equally demanding and intensive as other levels of representation. Indeed, an earlier analysis found more women were elected in Australian parliaments than local councils in 2005.³⁰ Other studies focusing on women in local government find that having supportive partners who share ideological beliefs and, more importantly, general domestic duties, was essential to women's success.³¹ Together, these studies indicate that women politicians can balance competing work and family demands when adequately supported, which may structure their trajectories into higher level positions, or without adequate support, role strain may tip them out of politics altogether. Overall, women councillors typically serve less time in their elected role than men, which may be partially explained by their greater role overload associated with balancing work, family and position as councillor.³² Ryan and colleagues' study of Australian women mayors found men were able to 'compartmentalise' their paid employment and domestic responsibilities, whereas women had little separation between the two roles, or overlap, sometimes bringing children to their council meetings when childcare was not available.³³ This provides insight into the ways in which women are balancing roles

²⁸ Jacqui Briggs, 'What's in It for Women? The Motivations, Expectations and Experiences of Female Local Councillors in Montreal, Canada and Hull, England'. *Local Government Studies* 26(4) 2000, pp. 71-84.

²⁹ Barbara Pini and Paula McDonald, 'A Good Job for a Women: The Myth of Local Government as Family-Friendly'. *Local Governance* 30(3) 2004, pp. 144-151.

³⁰ Marian Sawer, 'Presence and the Price: Women and the 2007 Australian Federal Election'. *Australian Feminist Studies* 23(6) 2008, pp. 263-269.

³¹ Briggs, 'What's in it for Women?'.

³² Peter Allen, 'Gendered Candidate Emergence in Britain: Why are More Women Councillors Not Becoming MPs?' *Politics* 33(3) 2013, pp. 147-159.

³³ Christine Ryan, Barbara Pini, and Kerry Brown, 'Beyond Stereotypes: An Exploratory Profile of Australian Women Mayors'. *Local Government Studies* 31(4) 2005, pp. 433-448.

that are often overlapping, integrated, and demanding. We draw upon previous research in this theoretical frame to test these assumptions through analyses of quantitative and qualitative datasets, including those who nominated for local government, those who were successful in the Victorian 2020 elections, and those who considered recontesting in 2020, but ultimately decided against it. Our analysis is guided by three main research questions:

Who runs for local government?

Who gets elected to council?

What obstacles limit equal gender representation?

METHOD

To answer these questions, we use a mixed methods design. We combine quantitative survey data of men and women candidates and elected councillors, with qualitative interviews with women who had previously run for office or were politically interested but decided at the last moment not to run. These unique data sources enabled us to triangulate findings to understand gender differences in the experiences of campaigning and being elected to local government. The interviews provide rich data to study a cohort found to be conspicuously absent in the survey data, which is women under 45. Ten women from this age cohort were interviewed for an hour each to understand their decisions to either not nominate or not recontest the 2020 local government elections.

Surveys

We use a multi-step approach to collecting and analysing data. In September 2020, we conducted a survey of local government candidates. Working with the VLGA, we sent a survey of 50 questions to the 2,186 men and women candidates on the VEC roll. The survey contained questions about candidates' motivations for running for council, domestic arrangements, past political experience and affiliations, skills, perceived barriers to overcome to be elected, the goals candidates hoped to achieve if elected to

council, and demographic questions.³⁴ Our survey response rate was 34 per cent, with 743 candidates completing the first survey. Comparisons with the VEC database show our sample was broadly representative on key demographics of the candidate population (see Table 1 in Appendix A). We had a slight overrepresentation of women in our candidate survey, with 43.9 per cent of women respondents compared to the population of 38.9 per cent of women who nominated for council (as per VEC data). We also had a higher proportion of regional respondents (44.3 per cent) compared to the VEC data (34.2 per cent).

Second, following the local government elections in December 2020, we undertook a second survey of the same length (50 questions) to capture responses of men and women who were newly-elected councillors at the beginning of their four-year terms. We asked the same demographic questions and questions about their motivation for running for council and activities of daily life, including paid work, childcare, and domestic responsibilities. Our survey response rate was 36 per cent, with 222 councillors completing the second survey out of a population of 623 elected councillors. Comparisons with the VEC database show our sample was broadly representative of the Victorian local councillor population, but with an overrepresentation of women (50.9 per cent in the sample compared to the 43.8 per cent elected). We again had a slightly higher proportion of regional respondents in the sample (59.5 per cent) compared to the councillor population (55.7 per cent), (see Table 1 in Appendix A for more sample details).

Interviews

Third, after analysing the quantitative data that revealed a missing cohort of women under 45 years of age, we sought more granular insights into this finding using qualitative analysis of in-depth interviews to complement our quantitative data set. To do this, we advertised through the VLGA and Facebook group, 'More Women for Local Government' to interview adult women 45 and under with an interest or past experience in local government representation (see Appendix B, Table 2 for anonymised interviewee details). The Facebook group contains 1,200 members who identify as politically interested in local government. We used purposive sampling to

³⁴ Demographic questions included age, gender, marital status, number of children under 18 at home, care-giving responsibilities, political leaning, party affiliation, locality, country of birth and cultural and linguistic diversity.

achieve a sample with a mix of rural and metro-based women both with and without children. The mean age was 34.4. We undertook ten interviews between February and March 2021. This number of interviews was deemed sufficient according to grounded theory as key themes were repeated indicating data saturation.³⁵ Due to COVID-restrictions, the semi-structured interviews were undertaken online using Zoom and each interview took approximately one hour. We employed inductive analysis to identify key themes from the interview transcripts using the qualitative analysis software tool, NVivo.

DATA AND ANALYSIS

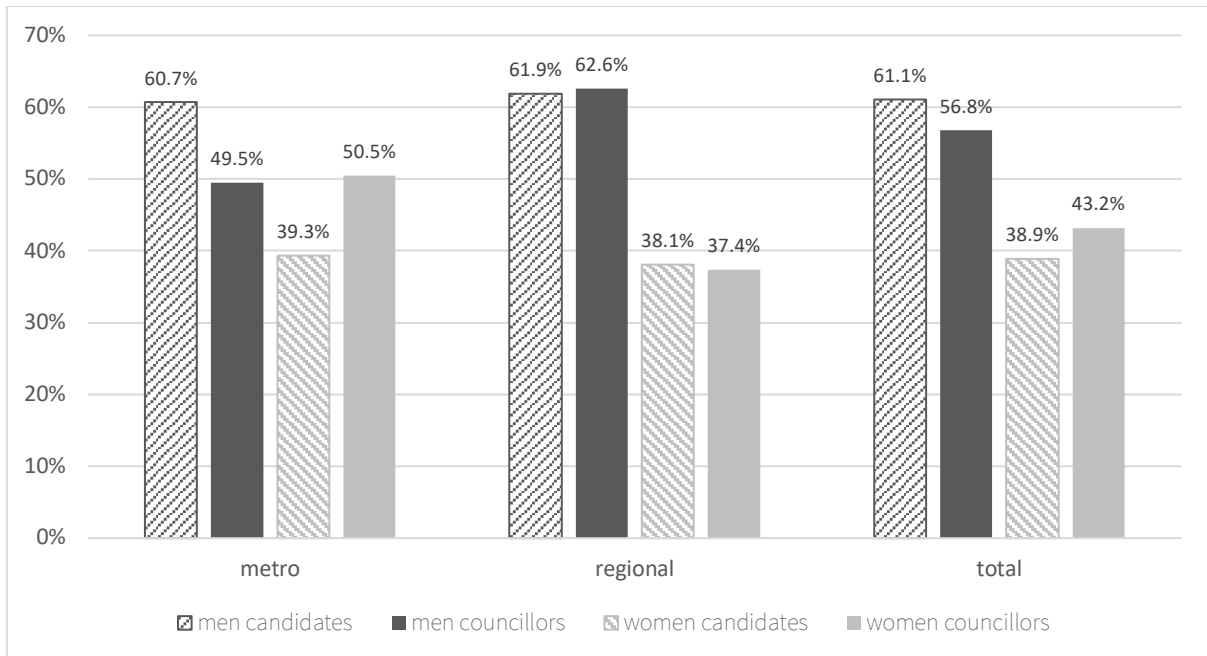
Who runs for council and who gets elected?

The VEC data reveals that more men (61.1 per cent) than women (38.9 per cent) nominated for election to councils. In raw numbers, this was 1,336 men compared to 850 women. However, as Figure 1 shows women candidates had a greater success rate, with almost one in three women nominated being elected (31.5 per cent) compared to only one in four men (26.3 per cent; $z = 2.62, p = .005$). As a result, women comprised 44.5 per cent³⁶ of all elected councillors, men 56.8 per cent. A further comparison of success rates by locality revealed that women candidates had a greater success rate than men in metropolitan councils (24.6 per cent for women compared to 15.6 per cent for men, $z = 8.85, p < .001$), but not in regional councils (45.3 per cent for women, 46.7 per cent for men, $z = -0.46, p > .05$).

³⁵ Corbin Strauss. *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*. Thousand Oaks: SAGE Publications., 2014

³⁶ The official proportion of female councillors is 43.8 per cent, which is at odds with the 44.5 per cent who succeeded at election. This is because several women have since resigned.

Figure 1. Electability: Proportion of male and female candidates nominating for election in metro and regional councils and their success rate



Source: Authors using VEC data; N=2,186 candidates and elected councillors; N=623

This finding tells a positive story of women's electability and addresses our second research question. It shows that despite fewer women nominating for councils than men, as a proportion of those who achieve success, electorally women fare better. This positive finding of female electability is consistent with other comparable local government studies, including in New Zealand³⁷ and in the federal Parliament of Australia. For example, Martinez i Coma and McDonnell's study of women's underrepresentation at the national level also finds overall that women candidates obtain more votes than men.³⁸ In Victoria, this finding is stronger in urban municipalities, which provides the first recommendation of this study: State

³⁷ McGregor and Webster, 'Women's Local Government Representation in Auckland', p.9.

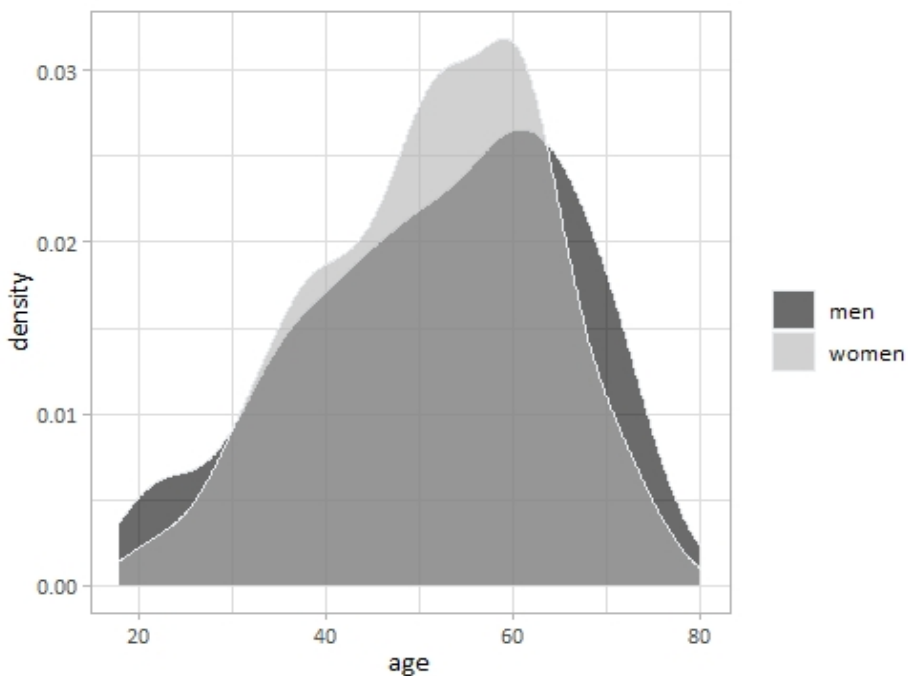
³⁸ Martinez i Coma and McDonnell, 'Australian Parties, Not Voters, Drive Under-Representation of Women', pp. 3, 16.

Government and local government sectors should commit greater resources to attracting women to run for councils in regional Victoria.

Age and Experience

Although the VEC does not collect data on the age of those who run for councils, our survey data indicates that running for council is an older person's exercise (Figure 2).

Figure 2. Age and gender distribution of Victorians nominating to run for 2020 local government elections in Victoria.



Source: Authors, September candidate survey. n=743

The mean age from the candidate's sample was 51.6 ($SD = 13.4$; range 18-80). There is also an electoral dividend for those with past council experience, which skews towards men (29 percent of men and 21 percent of women aged 45 plus). Also, we can see in Figure 2 that proportionally more younger men than women (particularly in the 18-30

age group) were nominated for the 2020 elections³⁹. In addition, more men had run for office at least three times, indicating a greater proportion of men than women with extensive campaign experience (16.9 per cent v 10.4 per cent). Overall, more men than women had previous council experience of at least one term (22.6 per cent compared to 16.6 per cent). Thus, to achieve gender parity, a second recommendation is to focus resources on training and encouraging younger women to run for council.

What obstacles limit equal gender representation?

Having addressed our first and second research questions and finding that older people are more likely to run for council and that women, especially in metro areas, are more likely to succeed than men, we turn to research question three to better understand the obstacles to running for local government. The analysis of the candidate and councillor survey data reveals important gender differences in work and life roles, which we now explore.

The data shows that women candidates and elected women in the age bracket 18-45 are equally likely as men to have young children. As a result, both younger men and women have more childcare responsibilities than those aged over 45. Notably, however, it is younger women who do more of this unpaid work (see Figure 3).

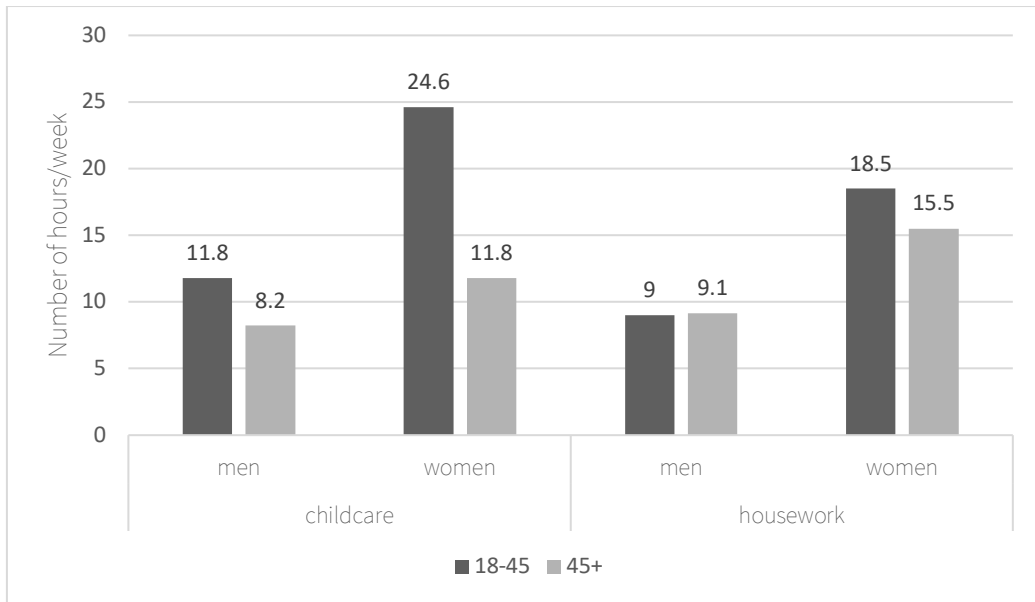
Our interview data affirms this quantitative finding with details about how some women consider these competing demands of political activity and family responsibilities:

Juggling being a councillor, having a small child and having work on top of that was really challenging. And I think more challenging than I kind of first imagined.

(Interview 1, 8 March 2021)

39 A comparison of densities using Kolmogorov-Smirnov test indicated that the age distribution of men candidates was significantly different from the age distribution of women candidates ($p = .034$). An additional comparison using logistic regression indicated that both the youngest (aged 18-30) and the oldest candidates (aged 60+) were more likely to be men ($b = -0.65$, $SE = 0.32$, $t = -2.02$, $p = .043$ and $b = -0.50$, $SE = 0.19$, $t = -2.66$, $p = .008$).

Figure 3. Childcare (a) and housework responsibilities (b) of local government councillors with children under 18



Source: Authors, N=222; n= 66 councillors with children under 18

Another former councillor, 33, said the competing demands of child-rearing and council responsibilities were irreconcilable for her and so she decided not to recontest in 2020:

I understand that council will pay for babysitters, but I don't want my children in care all the time. And so it was sort of sold to us when we were doing our training and as part of the women in local government that it was family friendly and all this, but it's not. So I feel a little bit tricked.

(Interview 4, 2 March 2021)

These findings also accord with Figure 2, which shows younger women are less likely to consider running for council than older women and younger men. As detailed in the interviews, this can be due to competing time demands with family responsibilities. More younger women than men with children under 18 spend time on childcare responsibilities, averaging 24.6 hours compared to 11.8 hours for men candidates. The councillor survey data also reveals that more women than men, irrespective of age, report having carer responsibilities (in addition to child-rearing) such as caring for elderly parents (see Table 1).

The in-depth interviews provide testimony that women interested in political careers felt this inter-role strain and decided not to recontest the election. A 33 year-old women with children, who considered running in 2020 but eventually decided against it, said:

It is time away from my own children. So not just time in terms of literally being able to fit it into my sort of current employment arrangements, but also that that's a sacrifice for my young kids.

(Interview 7, 5 March 2021)

This gender difference is strongest among younger candidates. In addition, the data shows collectively that women counsellors with children under 18 are spending much more time on housework than their male counterparts (see Figure 3). This difference is compounded when we look at younger women councillors. Women who fall into this group spend on average 18.5 hours per week on household chores, compared to 9 hours for men. One 40-year woman with three children aged under 10 considered running for the 2020 council elections but then decided not to. Her decision spoke to the effects of role strain:

Sometimes it just feels like there's not enough hours in the day already. With work, volunteer work, community work, and parenting, and then friendships, partners, things like that, as well.

(Interview 9, 24 February 2021)

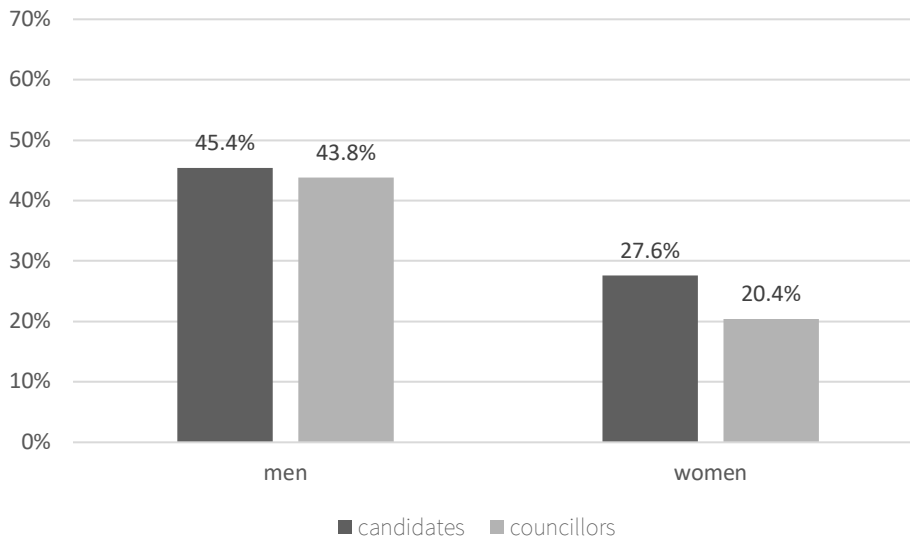
Another interviewee said she would wait until her children were older before nominating for council:

In the end, I just thought, this is my last baby, and I didn't want to regret not spending time with her. So I decided not to run, that was the key reason.

(Interview 10, 3 March 2021)

Both the candidate and councillor data show that it was about half as likely that women who nominated or were elected to council were also in full-time employment, compared to men (see Figure 4).

Figure 4. Proportion of candidates and councillors employed full time



Source: Authors, n=729 candidates survey; n= 222 councillors survey.

It appears that in order to accommodate political activity with other competing roles, the option of full-time work for women is often sacrificed to accommodate parenting, housework and council activity. For some women, however, this trade-off may not be an option. We see evidence of financial and/or career insecurity in decisions not to run for council in 2020:

I just didn't consider it feasible that I would be able to maintain my current employment responsibilities plus do the work of council ... I felt it would have a necessary and direct impact on my ability to earn money on behalf of my family.

(Interview 7, 5 March 2021)

This concern about financial pressure and juggling part-time employment with council work was repeated in other decisions not to run for council. For example:

My intent would have been to maintain a part time work arrangement, and then the council position as well. I appreciate that the council position is a good 30 hours of work a week, it's just outside of the usual business sort of hours.

(Interview 10, 3 March 2021)

In each instance we see evidence of role strain, the ‘felt difficulty in fulfilling role obligations’,⁴⁰ both for women with and without children. For example, a 28-year-old in a relationship and building her career, considered running for council in 2020, but did not do so after considering the impact that taking on council responsibilities might have on her career path:

I think the expectation would have been that I would have dropped down to part time in my current position, and picked up the council position as a part time position. Essentially I would have two part time jobs.

(Interview 8, 12 March 2021)

For some interviewees, the sacrifice of giving up full-time work to be able to accommodate political activity, plus family responsibilities was considered too high a price to pay after investing time to build a career. For example:

It would be really difficult having done those hard yards to then have to leave the workforce again, and then try and re-enter in however many years’ time. I’m lucky that I have been a long-term employee. ... [I]t would have been difficult because I would not have wanted to give up, essentially, my career that I’ve worked in for 20 years, for something else.

(Interview 9, 24 February 2021)

Addressing our third research question, the survey data and interview responses show evidence of role strain as a key obstacle for younger women entering and staying in local politics. Added to this difficulty of reconciling numerous roles with council work was interviewees’ concerns over financial security. Our data shows women more than men are likely to be in part-time jobs, earning less, than men counterparts. Further, Victorian councillor remuneration is low compared to other forms of employment (between \$8,833 and \$31,444 per year).⁴¹ Councillor allowances vary depending on the number of constituents in an electorate, with regional councillors in the lowest paid ‘category 1’ remuneration band. A 2008 review of council allowances found ‘allowance levels presented a barrier to candidacy for women, young people and mid-career

⁴⁰ Goode, ‘A Theory of Role Strain’, p. 483.

⁴¹ Victorian State Government, ‘Proposed Determination of Allowances for Mayors, Deputy Mayors and Councillors - Consultation Paper’, 2021. Accessed at: <https://www.vic.gov.au/proposed-determination-allowances-mayors-deputy-mayors-and-councillors-consultation-paper-july-2021/existing-council-allowances-system>

professionals'.⁴² Low pay and intense family demands mean women have less discretionary funding to outsource some of these competing pressures. Critically, we find through the in-depth interviews that the existing caregiving resources provided by local councils are, for some, not adequate to meet their caregiving needs, which means these resources may be less effective than intended. Clearly, the reasons for the missing cohort are multifactorial with weak economic compensation likely intensifying the need for full-time work and limiting means to outsource domestic labour—two factors that compound experiences of role strain. We draw upon these insights to make clear policy recommendations below.

CONCLUSION

The Victorian Government has set a target of equal gender representation in local government by 2025. Critical to achieving this goal is understanding barriers to women's entry into, and their experiences within, local government. Here, we have applied a role strain perspective, postulating that combining the role of councillor with other intense roles like mother or worker would be difficult for women to reconcile. We find strong support for this theoretical perspective, with women councillors in our surveys reporting more than twice the housework and caregiving demands as men. Many managed these intense role demands *on top of* employment. In this regard, we find women were managing distinct work and family demands alongside council work more so than their men counterparts.

It is perhaps, no surprise that we identify a 'missing cohort' of young women putting their hand up to run for local government. Through our interviews, we show these women anticipate inter-role strain and thus are unwilling to sacrifice their careers and family wellbeing to run for local council despite their political interest. In this regard, role strain impacts women's local government representation in two ways: (1) women who are local councillors hold more intense work and family demands and, (2) women anticipate inter-role strain and thus abstain from putting their hands up or decide not to recontest the next election. As a consequence, women are more likely to run for local government at later ages when child-rearing responsibilities have eased, but with

⁴² Victorian State Government, 'Proposed Determination of Allowances'.

less council experience than men. These findings have serious implications for both burn-out within local government and a leaky pipeline of women for higher office. Failure to address role strain is a missed opportunity to redress questions of Parliament as a gendered workplace. Achieving gender parity may be a step toward changing entrenched gendered cultures in this novel workplace.

Despite these barriers, the data indicate that women are more electable in local government suggesting that increasing the pool of women candidates will likely increase women's representation. These patterns are most evident in urban areas, with stronger attitudinal support for gender quotas amongst Labor and the Greens (see also Martinez i Coma and McDonnell's 2021 analysis at the federal level)⁴³, thus indicating that greater investment to support women candidates in rural areas is necessary. This provides one clear recommendation for future policy action.

Critically, however, our research also indicates a need to better support for the unique needs of women councillors, especially young women balancing high housework and caregiving demands on top of paid employment. One clear action would be to provide childcare supports for local councillors. This is recently available in Victoria but the subsidies and conditions under which they can be claimed, and what is considered a reasonable expense, vary from council to council.⁴⁴ Some councils' policies limit claims to formal meetings and exclude less publicly visible council work such as responding to constituents' emails. A systemic policy would create greater certainty and fairness for all councillors, including men. As our interview data indicate, some councillors were also reluctant to put children in care which suggests this resource may not be as effective as anticipated. A complementary policy would be to provide flexibility in who can be paid to care for children and to consider including friends and family as carers, which could ease role conflict outside of formal childcare operating hours.

Further, councillors would benefit from additional resources including better remuneration (which the Victorian Government is currently considering).⁴⁵ A flexible, capped spending account to outsource housework, is another option to increase

⁴³ Martinez i Coma and McDonnell, 'Australian Parties, Not Voters, Drive Under-Representation of Women', p. 16.

⁴⁴ Victorian State Government, 'Councillor Expenses and Allowances: Equitable Treatment and Enhanced Integrity', 2020. Accessed at: <https://www.lgi.vic.gov.au/sites/default/files/2020-09/LGI-Councillor-support-report.pdf>.

⁴⁵ Victorian State Government, 'Proposed Determination of Allowances for Mayors, Deputy Mayors and Councillors - Consultation Paper', 2021. Accessed at: <https://www.vic.gov.au/proposed-determination-allowances-mayors-deputy-mayors-and-councillors-consultation-paper-july-2021/>

women's participation across all age levels. These concessions would require a larger public discussion about why women find reconciling work, family and councillor life difficult and the value of women in these spaces at younger ages. Given that the experiences of women councillors are likely to mirror those of their constituents, a public campaign around these issues is likely to resonate with women constituents and to help normalize the need for childcare subsidies for all councillors with young children so that they are not regarded as a 'woman's expense'. This is an area that would benefit from further research. Ultimately, without solving issues around combining work, family and local council representation, women will continue to trail men in their political equality in these spaces. This remains a public issue worthy of deep investment to ensure women's successes within local government. Such successes can serve to strengthen women's pipelines to achieve gender parity and its flow-on effects in the Federal Parliament as a gendered workplace, in order to create a more representative democracy for all.

Essential Part of Life or Essentially Ignored? Combining Care Labour with Parliamentary Duties*

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* Double-blind reviewed article.

Abstract Despite significant efforts to increase women’s participation in the paid workforce, Australian politics remains resistant to calls for greater workplace flexibility, including family-friendly measures. One of the issues contributing to this problem is women’s disproportionate share of care labour, and the persistence of cultural norms that reinforce a gender binary in the division of public and private duties. A significant oversight to date is the common conceptualisation of care duties solely in relation to children, and more specifically, babies and young children. While some structural support is already in place for childcare, the diversity of caring roles has received very little attention. In this paper, I examine Parliament as a family-friendly workplace, with an emphasis on the multi-faceted nature of caring. In doing so, I argue that while ‘babies are ok’, there is a need to shift the discourse to one more inclusive of care labour—in all its manifestations—if workplace practices are to be changed to accept diversity as the standard.

INTRODUCTION

The division of paid and unpaid labour has received a significant amount of attention in recent years in Australia. The often-cited figures of women continuing to shoulder

most of the burden have been further amplified during the global COVID-19 pandemic,¹ painting a dark picture of the state of gender equality at home and at work. Naturally, these impacts have not been evenly distributed, but rather vary significantly depending on both the individuals' social attributes such as gender, class, age, and ethnicity, as well as structural variations in workplace policies and practices.

In the global context, early projections from the ILO show that five per cent of all employed women, and 3.9 per cent of men, lost their employment during the pandemic. Simultaneously, women's recruitment or promotion into leadership roles declined markedly, and the longer 'double-shift' of paid and unpaid labour brought on by school closures and limited care services negatively impacted work-life balance among women with children.² The annual global comparison also signals Australia's progress towards gender equality coming to a halt, with the country dropping six places in the World Economic Forum's Global Gender Gap Report's overall rankings from 44th in 2020 to 50th out of 156 countries in 2021.³ Much of this regression is attributable to the country's poor rankings in terms of 'Economic participation and opportunity' (70th), and 'Political empowerment' (54th).⁴

While there is little doubt that the COVID-19 pandemic exacerbated an already fraught situation, the issues regarding work and care are not new. As Elizabeth Hill and Sara Charlesworth argue, the pandemic and the 2020 bushfire crises in Australia 'exposed longstanding weaknesses in our labour market and the child-care, aged care and disability care systems', even if 'they are the two sides of the same coin'.⁵ Given the focus in recent years on the need to improve both women's labour force participation

¹ Lyn Craig and Brendan Churchill, 'Working and Caring at Home: Gender Differences in the Effects of Covid-19 on Paid and Unpaid Labour in Australia'. *Feminist Economics* 27(1–2) 2021, pp. 310–326.

² World Economic Forum, 'Gender Gaps, COVID-19 and the Future of Work'. *Global Gender Gap Report 2021*. Accessed at: <https://www.weforum.org/reports/global-gender-gap-report-2021/in-full/gggr2-key-findings#gender-gaps-covid-19-and-the-future-of-work>

³ World Economic Forum, 'Benchmarking Gender Gaps: Findings from the Global Gender Gap Index 2021'. *Global Gender Gap Report 2021*. Accessed at: <https://www.weforum.org/reports/global-gender-gap-report-2021/in-full/gggr2-benchmarking-gender-gaps-findings-from-the-global-gender-gap-index-2021#gggr2-benchmarking-gender-gaps-findings-from-the-global-gender-gap-index-2021>

⁴ World Economic Forum, 'Benchmarking Gender Gaps'.

⁵ Elizabeth Hill and Sara Charlesworth, 'In 2020 Our Workforce and Our Caring System Broke. They Are the Same Thing'. *The Conversation*, 16 March 2021. Accessed at: <https://theconversation.com/in-2020-our-workforce-and-our-caring-system-broke-they-are-the-same-thing-152191>

and their access to leadership, it is curious how little has been done to make care provisions more widely accessible—regardless of gender, family circumstances, or socio-economic status.

Current evidence suggests that caring is not gender-neutral; women are disproportionately impacted because they shoulder most of the caring responsibilities. Further, certain industries have been much slower to respond to changing labour demographics: rather than improving care provisions, they have reinforced and reproduced traditional gender norms and binaries that position women as primary caregivers, and men as primary breadwinners. The Australian Parliament can be characterised as such a workplace. Overwhelmingly dominated by white, heterosexual men, it is known for an adversarial and often hostile culture that continues to present a barrier for women's greater participation, and that of more diverse cohorts of the population.

While some progress is evident in institutional efforts to be more inclusive of those with childcaring duties—a point to which I will return later—this progress is perhaps marred by an extremely slow pace of change, often described as 'glacial': 'The new Australian Parliament building opened in 1988 with squash courts, a swimming pool, a meditation room but no childcare centre. It took years of campaigning to win one—from 1983 to 2009'.⁶ Moreover, given that MPs continue to resign from politics citing 'family reasons', there may be a limit to the effect of structural changes such as a childcare centre. The Australian parliamentary workplace has a long way to go before it can truly be called 'family friendly'.

Affordable childcare is a crucial part of creating family-friendly work environment, but on its own it is not enough to change the status quo. This article focuses on the question of how far the Australian Parliament has come in terms of providing a family-friendly workplace. I argue that in striving towards a gender equal and diverse Parliament, the concept of care labour must be incorporated into policy reform proposals in its broadest possible form. I consider three opportunities for policy change. The first consideration relates to the availability of childcare in the Parliament. As a consequence of the limited space allocated, the centre caters to children aged three and under, requiring parents and carers to find another facility before the formal

⁶ Marian Sawyer, 'Australian Parliaments—Still Not Family Friendly'. *ANU Reporter*. Accessed at: <https://reporter.anu.edu.au/australian-parliaments—still-not-family-friendly>

school years, which in Australia occurs around the time the child turns five. Given that caring duties do not end when a child starts school, the current inflexibility of the Parliament as a family-friendly workplace requires further consideration and solution design.

Second, while not specific to the Parliament, the changing demographics of the general population necessitate a broader policy approach when it comes to caring duties. The rise in the so called ‘sandwich generation’; that is, people who are looking after their aging parents and their own children simultaneously, combined with declining birth rates and those whose caring duties are not linked to dependants at all, as well as those caring for people with special needs and disabilities, all need to be taken into account when designing family-friendly policies. Currently, there are no leave provisions or policies specific to these broader considerations, affecting the support available for parliamentarians, and consequently narrowing the parliamentary talent pool and challenging the notion of representative democracy.

Third, for any structural change to be successful, we also need factor in the cultural norms, and the perceptions and attitudes which may not be compatible with the proposed changes. This too is something that applies both to the whole of population, since the attitudes and perceptions of people in general interact with the political sphere. Furthermore, the current cultural norms within the Parliament, as evidenced by the frequent media attention on sexism and hostility in politics, have not shifted to reflect the increasing number of women in politics. This will need to be taken into account when designing new policies, since there is an increased likelihood of resistance from those in power who do not consider the current environment problematic.

In what follows, I first discuss the concept of care labour and its parameters, focusing in particular on its interplay with the paid labour force and the gendered division of labour in Australia. In doing so, I will also briefly note the impact of COVID-19 on both paid and unpaid labour, before I examine the Australian context in which there have been increased calls for family-friendly parliaments. Drawing on pilot interviews conducted with female parliamentarians prior to the pandemic,⁷ as well as illustrative

⁷ Pia Rowe and Jane Alver, ‘Unpaid Labour: Gender and the Unseen Work of Politicians’, in Zareh Ghazarian and Katrina Lee-Koo (eds), *Gender Politics: Navigating Political Leadership in Australia*. Sydney: UNSW Press, 2021, pp. 135-145.

examples from recent media coverage, I will highlight the conceptual blind spots in the public discourse. Finally, I will offer some suggestions for the way forward. Overall, I argue that meaningful change will depend on a comprehensive shift in both the cultural norms which see continue to legitimise women's disproportionate share of caring duties, as well as the structural changes which will improve the work-life balance of all parliamentarians.

CONCEPTUALISING CARE LABOUR AND 'FAMILY-FRIENDLY' WORK

The term 'care labour' refers to all forms of paid and unpaid work involved in caring for others. According to the Workplace Gender Equality Agency (WGEA), in the paid work domain it includes 'occupations providing a service to people that help develop their capabilities, such as childcare educators, all levels of teaching (preschool to university professors), and all types of health care workers (such as nurses, doctors and therapists)'. Unpaid care work refers to 'all forms of domestic work, such as cooking, cleaning, washing, gardening and home maintenance' and also includes 'taking care of children, the elderly or a family member with a long-term health condition or disability as well as voluntary community work'.⁸ Here, I will briefly focus on the scholarly literature on care as it pertains to family-friendly paid work in particular.

Care labour has received a lot of attention from scholars over the years, as the integration of work and care remains a challenge for many families.⁹ There is a growing recognition of the complexity of care relationships at all levels of analysis.¹⁰ The fragmentation of the employment relationships, influenced by factors such as the marketisation of formal care; the growing need to utilise informalised care workers (au pairs, migrant workers and other lived-in carers) who may not be protected by minimum labour standards, and who rely on various immigration policies in order to enter the country in the first place; changes in the workforce such as the increasing casualisation of work and the changing labour market demographics; and the

⁸ WGEA, *Unpaid Care Work and the Labour Market*. Insight Paper. No date. Accessed at: <https://www.wgea.gov.au/sites/default/files/documents/australian-unpaid-care-work-and-the-labour-market.pdf>

⁹ Sylvia Fuller and C. Elizabeth Hirsh. "Family-Friendly" Jobs and Motherhood Pay Penalties: The Impact of Flexible Work Arrangements Across the Educational Spectrum'. *Work and Occupations*, 2018, pp.3-44.

¹⁰ Donna Baines, Sara Charlesworth, Tamara Daly and Sue Williamson. 'The Work of Care: Tensions, Contradictions and Promising Practices'. *Labour and Industry* 2018, pp.257-260.

insufficient focus on unpaid labour in the private sphere, all present challenges to the care workers, recipients care, and the families who rely on care.¹¹

Much focus in recent years has been on ‘family-friendly’ workplaces as more women enter the paid workforce, thus necessitating a different approach to care. The umbrella term encompasses a variety of policies and programs designed to facilitate the employees’ ability to fulfil their family responsibilities.¹² However, the uptake of these varies greatly, and is often influenced by the workplace culture more broadly.¹³ It is also important to recognise that these measures do not always have the intended outcome. For example, workplace flexibility is often perceived as beneficial to parents. However, evidence suggests that the outcomes of different arrangements are mixed, with flexible work arrangements (for example, flexitime) being associated with lower fatigue and less burnout for parents, whereas higher use of flexible leave arrangements (such as purchased leave) and informal arrangements (self-directed flexibility with time use) were associated with poorer health outcomes.¹⁴

In the parliamentary context, there have been some interesting developments internationally. For example, in the UK, *The Good Parliament* report prepared by Professor Sarah Childs in 2016 included several practical recommendations for overcoming the ‘diversity insensitivities’ in the House of Commons.¹⁵ In response to one of the recommendations, a gender sensitive audit was undertaken and the results published in 2018. Subsequently, the House of Commons and the House of Lords Commissions published a combined response in 2019.¹⁶ However, too much of the discussion around family-friendly work practices in this process centred on parenting

¹¹ Baines, Charlesworth, Daly and Williamson. ‘The Work of Care’.

¹² Toni S. Moore. ‘Why Don’t Employees Use Family-Friendly Work Practices?’. *Asia-Pacific Journal of Human Resources* 2020, pp. 3-23.

¹³ Moore. ‘Why Don’t Employees Use Family-Friendly Work Practices?’.

¹⁴ Stacey Hokke, Shannon K. Bennetts, Sharinne Crawford, Liana Leach, Naomi J. Hackworth, Lyndall Strazdins, Catram Nguyen, Jan M. Nicholson and Amanda R. Cooklin. ‘Does Flexible Work ‘Work’ in Australia? A Survey of Employed Mothers’ and Fathers’ Work, Family and Health’. *Community, Work and Family*, 2020, pp. 488-506.

¹⁵ Sarah Childs. ‘The good parliament’, 2016. Url: <https://www.bristol.ac.uk/media-library/sites/news/2016/july/20%20Jul%20Prof%20Sarah%20Childs%20The%20Good%20Parliament%20report.pdf>

¹⁶ UK Parliament. Response to the UK Gender-Sensitive Parliament Audit 2018, 2019. Accessed at: https://www.Parliament.uk/globalassets/documents/lords-committees/house-of-lords-commission/2017-19/UK_Parliament_Gender_Sensitive_Report_Response_Combined.pdf

duties and child care specifically, although topics such as the need for facilities to support the needs of parliamentarians stemming from unsociable hours—which naturally are not specific to parenting—also surfaced (see Recommendations 24, 25 and 26).¹⁷

Over the years both the literature and the legislation in Australia have started recognising families as increasingly diverse in both structure and function.¹⁸ However, there is no one overarching or unified policy or guideline covering all industries and workplaces in Australia. The concept of intersectionality, originally conceived to highlight the way in which race and gender interact, has gained some prominence in the mainstream debates as a response to addressing the lack of diversity in the workplace, though there is no consensus on how it can be applied in practice. Regardless, even though the field of work and employment relations benefits from greater engagement with the concept, rather than focusing on its methodological aspects, by merely being more intersectionally sensitive the concept can be brought into sharper relief.¹⁹ Such an approach has obvious resonance with the concept of family-friendly workplaces, which within the industries are often discussed vis-à-vis parenting duties and childcare, but rarely as something that pertains to the whole human lifecycle. In the next section, I will examine care labour statistics in the Australian context, focusing in particular on care as a multifaceted role.

CARE LABOUR IN AUSTRALIA

In Australia, care labour is still predominantly done by women, who spend 64.4 per cent of their average working hours each week on unpaid work, compared to 36.1 per cent for men.²⁰ At the same time, while women comprise 47.2 per cent of all employed persons in Australia, they only account for 37.9 per cent of all fulltime employees, and

¹⁷ UK Parliament. 'Response to the UK Gender-Sensitive Parliament Audit 2018'.

¹⁸ Moore. 'Why Don't Employees Use Family-Friendly Work Practices?'

¹⁹ Anne McBride, Gail Hebson and Jane Holgate. 'Intersectionality: Are We Taking Enough Notice in the Field of Work and Employment Relations?'. *Work, Employment and Society* 2014, pp.331-341.

²⁰ Accessed at:

<https://www.wgea.gov.au/sites/default/files/documents/Gendered%20impacts%20of%20COVID19.pdf>

67.2 per cent of all part time employees.²¹ When it comes to looking after children, women also take up most of the paid primary parental leave (92.7 per cent women vs 7.7 per cent men), while paid secondary leave is mostly utilised by men (women 3.5 per cent vs men 96.3 per cent).²²

Predictably, these figures have become even more pronounced since the beginning of the global COVID-19 pandemic. ABS data show that in December 2020 women were twice as likely as men to have spent 20 or more hours per week caring for and supervising children (27 per cent of women compared with 13 per cent of men). They were also twice as likely to have spent five hours or more on unpaid indoor housework (54 per cent of women compared with 28 per cent of men). The inequalities extended to household chores, with 54 per cent of women having spent five unpaid hours or more on cooking and baking, compared with 31 per cent of men.²³ The preliminary results from my own visual research, where adults over the age of 18 took photos of their unpaid labour in Australia during COVID-19 lockdowns over any seven days of their choosing,²⁴ also demonstrate the gender disparities of the mental load (that is, the non-material aspects of labour, such as doing the meal planning, and organising the weekly schedules), with women carrying most of the burden.

While a full analysis of the context that has led to these inequalities is outside the scope of this paper, several factors ought to be highlighted, since the gendered norms in the Parliament—while unique in many respects—do not exist in isolation from the broader society and culture. First, even though improvements have been made in the number of women entering politics over the decades, overall Australia's workforce has remained persistently gender segregated for the past 20 years. Combined with gender

²¹ WGEA, *Progress Report 2019-20*. Accessed at: https://www.wgea.gov.au/sites/default/files/documents/wgea-progress-report-2019-20_0.pdf

²² WGEA, *Progress Report 2019-20*.

²³ ABS, Household impacts of COVID-19 Survey. Insights into the prevalence and nature of impacts from COVID-19 on households in Australia, May 2021. Accessed at:

<https://www.abs.gov.au/statistics/people/people-and-communities/household-impacts-covid-19-survey/latest-release>

²⁴ Zoe Daniel, 'Coronavirus Has Prompted Both Men and Women to Do More Housework—and Nobody's Happy about It, Data Shows'. *ABC News*, 20 June 2020. Accessed at: <https://www.abc.net.au/news/2020-06-20/coronavirus-covid19-domestic-work-housework-gender-gap-women-men/12369708>.

pay gaps,²⁵ the high cost of child care and the associated workforce disincentive all contribute to a culture that upholds traditional gender norms. This is significant because it has a direct impact on the division of labour in families with child care duties. Childbirth and the transition to parenthood has been shown to have a differential gendered impact in terms of paid workforce participation, as well as attitudes to caring responsibilities, although differences are also directly related to the institutional arrangements that support a traditionally gendered division of labour.²⁶

However, it is important not to limit the analysis of care just to dependent children. In Australia, the prevalence of disability is similar among both men (17.6 per cent) and women (17.7 per cent). Around 10.8 per cent Australians provide unpaid care to people with disability and older Australians, while 3.5 per cent of the population aged 15 and over (861,600 people) are primary carers. Unsurprisingly, women provide the bulk of this care, representing seven in every ten primary carers.²⁷ Interestingly, the reasons for taking on the role of primary carer also depended on the carer's relationship to the recipient, with one third of those caring for a child saying they had no other choice, compared with 21.8 per cent of those caring for a spouse or partner, and 14.4 per cent of those caring for their parent.²⁸

At the same time, the ageing population has also generated a phenomenon colloquially referred to as the 'sandwich generation'; that is, people who are in the workforce, while simultaneously caring for their children and their ageing parents. In some scenarios, the carers may simultaneously even be helping out with their grandchildren, and go through this phase of life while also going through menopause.²⁹

Against this backdrop, it is hardly surprising that care labour has remained highly gendered in Australia. Less researched, however, is the link between highly gendered

²⁵ WGEA, *Gender segregation in Australia's workforce*. April 2019. Accessed at: <https://www.wgea.gov.au/publications/gender-segregation-in-australias-workforce>

²⁶ Janeen Baxter, Sandra Buchler, Francisco Perales and Mark Western, 'A Life-Changing Event: First Births and Men's and Women's Attitudes to Mothering and Gender Division of Labour'. *Social Forces* 2015 93(3), pp. 989–1014.

²⁷ ABS, *Disability, Ageing and Carers, Australia: Summary of Findings*, October 2019. Accessed at: <https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release#carers>

²⁸ ABS, *Disability, Ageing and Carers, Australia*.

²⁹ Australian Seniors, *The Sandwich Generation Phenomenon is Taking Its Toll*. November 2020. Accessed at: <https://www.seniors.com.au/home-contents-insurance/discover/the-sandwich-generation-phenomenon>

care labour in Australia and the continued lack of diversity in the Australian Parliament, both in terms of its composition (membership), and its institutional culture. In the next section, I will explore this relationship further.

THE GENDERED NORMS OF CARE IN PARLIAMENT

Normalising babies in Parliament?

In 2017, Kelly O'Dwyer, then federal Minister for Women and for Jobs and Industrial Relations became the first Cabinet Minister to have a baby while in office, and the first woman to breastfeed in a Cabinet meeting, while the Greens Senator Larissa Waters became the first woman to breastfeed in Parliament.³⁰ O'Dwyer and Waters were preceded by Ros Kelly and Anna Burke (respectively, the first and second female Members of Parliament to have a baby) and Nicola Roxon (the first female Cabinet Minister to have a preschool-aged child).³¹

Together, these women have begun to normalise motherhood in politics, but the path to this point has been far from smooth. As recently as 2003, Victorian State Labor MP, Kirsty Marshall, was asked to leave the chamber for breastfeeding an infant.³² In response, the Australian Senate changed its standing orders to exclude a 'Senator breastfeeding an infant' from the prohibition of 'visitors' on the floor of the chamber. However, in 2009 Greens Senator Sarah Hanson-Young entered the chamber to vote while carrying her two-year old toddler, resulting in the President of the Senate ruling that the child be removed. To cover such incidents, Standing Orders were amended in

³⁰ Pia Rowe, 'The O'Dwyer Case: Don't Throw the Mother Out with the Bathwater', in Mark Evans, Michelle Grattan and Brendan McCaffrey (eds), *From Turnbull to Morrison: The Trust Divide*. Melbourne: Melbourne University Press, 2019, pp. 199-210.

³¹ Mark Rodrigues, *Children in the Parliamentary Chambers*. Research Paper no. 9 2009-10. Accessed at: https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp0910/10rp09

³² Ben Knight, 'Victorian MP and Baby Ejected from House'. *ABC News*, 26 February 2003. Accessed at: <https://www.abc.net.au/pm/stories/s793397.htm>

2016 to add an exemption to the prohibition on ‘visitors’ for a ‘Senator caring for an infant briefly’.³³

The House of Representatives adopted a different approach to breastfeeding. The Rudd Government introduced an amendment to the Standing Orders to allow nursing mothers to vote in divisions by proxy. Subsequent amendments to allow infants to accompany Members into the House of Representatives Chamber and the Federation Chamber were made in 2016.³⁴

Despite such changes, in January 2019 O’Dwyer announced she would quit politics at the next election, citing family reasons—she no longer wanted to miss seeing her children when she went to bed at night and when she woke up in the morning. Perhaps mindful of the effect her decision would have on prospective women candidates, she was quick to argue that it was not a sign of the two being incompatible, and that even though the role necessitated some sacrifices, with the right support it was possible to do both, and do both well.³⁵ Her choice of words—‘with the right support’—even if unintentional, speaks to a broader pattern of support, or more accurately, lack thereof for those with caring responsibilities in the Parliament, especially when one takes into account the number of people who have since quit for similar reasons.

Care as a challenge to democracy?

In many ways, the status of women in Parliament in Australia, and the status of care provisions in Australia resemble the age-old adage about the chicken and the egg. The system, as it currently stands, is set up almost exclusively to reflect old-fashioned, masculine norms of leadership. The benchmarks for behaviour and success, it follows, are also modelled after these norms, making it difficult for women in the current context where they also do most of the care work to increase their representation in the Parliament. This in turn impacts the quality of decision-making in Parliament, as the interests of the governing body do not reflect the interests of the whole society.

³³ Marnie Cruickshank and Barbara Pini, ‘Fleshy Citizenship: Representations of Breastfeeding Politicians in the Australian Media’. *Feminist Media Studies* 2020, p. 1.

³⁴ Anna Hough, Australia’s Parliament House in 2016: A Chronology of Events. *Research Paper Series, 2017-18*. Accessed at: <https://apo.org.au/sites/default/files/resource-files/2017-12/apo-nid124016.pdf>

³⁵ Pia Rowe, ‘The O’Dwyer Case’.

It is important to emphasise that this is not a biological argument positing that women are better leaders than men—much the same way as neither sex nor gender make women or female-identifying people natural carers. Rather, the argument serves to highlight the differences in leadership styles, where the stereotypically ‘male’ styles of leadership have traditionally been regarded as the gold standard, while the stereotypically ‘feminine’ qualities of empathy, compassion, listening and collaboration have been viewed as ‘soft’ values.³⁶ In other words, Australia ‘needs leaders who will lead with women in mind’.³⁷

As Rubenstein *et al* have noted, when Parliament comes to legislate around issues,

... the differential impact on people through gender and other aspects of life experience such as age, ethnicity, class, and sexuality are all considerations that must be taken into account. Doing so is not only imperative for addressing the existing gender inequalities and improving the lives of women, but also for the validity of the representative democracy as a whole’.³⁸

Drude Dahlerup posits the question more succinctly: ‘Can one honestly speak of democracy if women and minorities are excluded, even if the procedures followed among privileged men in the polity fulfil all the noble criteria of fair elections, deliberation and rotation of positions?’.³⁹

Care as more than motherhood of young children

Given the lack of diverse representation overall, it is not surprising that discussions around caring roles in the context of parliamentary duties have so far focused predominantly on babies and young children. This, as previously noted, does not take into account the full scope of care labour, and its impact on the gendered parliamentary workplace.

³⁶ Kim Rubenstein, Trish Bergin and Pia Rowe, ‘Gender, Leadership and Representative Democracy: The Differential Impacts of the Global Pandemic’. *Democratic Traditions* 2020, pp.94-103.

³⁷ Ramona Vijeyasara, ‘Gender Equality in Australia: Looking for the Silver Bullets in the Short and the Long Term’. *Australian Journal of Human Rights* 2021, DOI: 10.1080/1323238X.2021.1932407

³⁸ Rubenstein et al, ‘Gender, Leadership and Representative Democracy’.

³⁹ Drude Dahlerup, *Has Democracy Failed Women?* Cambridge: Polity Press, 2018.

In our pilot interviews with Australian female parliamentarians on their own experiences of unpaid labour, the interviewees identified a number of cultural and structural issues that both reflected the gendered division of labour, and the interlinked struggles to maintain any semblance of a 'work and family' balance. Spousal support was raised by many, with some noting that their male colleagues were essentially treating their female partners as their own 'life support systems'. Yet when probed further, many did not expect their own male partners to step into a similar role to support them, but rather were more likely to utilise paid services such as cleaners, or accept help from their own mothers. Tellingly, one interviewee also highlighted the invisibility of her own caring duties: 'I have no kids so there's this assumption that I don't have a family ... there is no acknowledgment for those caring for their parents'.⁴⁰

The definitions of what constitutes a 'family' aside, Australia's vast geography also presents significant issues with regards to changing the nature of Parliament to be more inclusive of diverse representation. Often referred to as 'the tyranny of distance', the term aptly captures the pressure faced by those who do not live in the vicinity of the national capital. For example, when Warren Snowdon (Labour, Northern Territory) announced that he would retire from politics, he estimated that during his 31-year career, he had spent two full years on domestic flights alone.⁴¹ And naturally, the issue of extensive travel is not limited to getting to and from Canberra. The seat of Durack in Western Australia, for example, spans over 1.6 million square kilometres. By comparison, the Australian Capital Territory, represented by two Senators and three Members of the House of Representatives, covers a mere 2,358 square kilometres. These distances suggest that the idea of being home 'in time to tuck the kids into bed' presents a significantly different challenge for MPs across the country.

Social attitudes of care in politics

If increased diversity in political representation and decision-making depends on diverse social groups being willing to enter into the often hyper-competitive and adversarial world of politics, then it is also important to consider how the Australian

⁴⁰ Pia Rowe and Jane Alver. 'Gender and the Unseen Work of Female Politicians'.

⁴¹ David Speers, 'For Some MPs, COVID-19 Has Meant Less Travel—and Perhaps a Shift to a More Family-Friendly Parliament'. *ABC News*, 11 January 2021. Accessed at: <https://www.abc.net.au/news/2021-01-11/politicians-covid19-less-travel-family-friendly-parliament/12996456>

public views the political landscape. A national survey of attitudes towards gender equality in Australia is illustrative. When asked to identify areas in which sexism is most widespread in Australia, both men (53 per cent) and women (63 per cent)—58 per cent in total—nominated ‘politics’, followed by the ‘workplace’, and the ‘media’. Comparatively, in a similar study conducted across Europe, only 28 per cent of respondents considered sexism most prevalent in politics.⁴²

More worryingly, surveys conducted by Plan International Australia show that young women are increasingly concerned by the political arena. In 2017, 56 per cent of young women believed that women were treated unfairly by their male colleagues. In 2021, that figure had risen to 73 per cent for respondents in the 18–21 age group, and 78 per cent among women aged 22–25. The figures were consistent across the political spectrum. Furthermore, only one in ten women aged between 18 and 25 believed that the work culture in Parliament was safe for young women to work in; only 12 per cent would pursue a career in national politics; and 81 per cent had never considered or aspired to be the Prime Minister.⁴³ Given the increasing number of media reports on politicians behaving badly, this is of course not surprising. It does, however, raise significant questions regarding the future of care norms, and the possibility for a holistic approach to family-friendly parliaments in Australia. The sexist attitudes and behaviour in politics then work in two ways in relation to care labour: firstly by acting as a deterrent for an increased female representation, and secondly, through their impact on the decision-making itself. As the research on gender equality attitudes in Australia showed, there is a correlation between sexist attitudes and traditional views on gender roles.⁴⁴

As such, a holistic change will depend on those currently holding the power being aware of the problems in the first place, something that cannot be automatically assumed. Without the pressing demand for change, the attitudes of politicians (and

⁴² Mark Evans, Virginia Haussegger, Max Halupka and Pia Rowe, ‘From Girls to Men: Social Attitudes to Gender Equality in Australia’. University of Canberra, 2018. Accessed at: <https://www.5050foundation.edu.au/assets/reports/documents/From-Girls-to-Men.pdf>

⁴³ Plan International Australia, ‘Just One In Ten Australian Young Women Believe the Culture In Our Nation’s Parliament Is Safe for Women, and Most Want Men To Do Better in Calling Out Sexism’. 31 March 2021. Accessed at: <https://www.plan.org.au/media-centre/just-one-in-ten-australian-young-women-believe-the-culture-in-our-nations-parliament-is-safe-for-women-and-most-want-men-to-do-better-in-calling-out-sexism/>

⁴⁴ Evans *et al*, ‘From Girls to Men’.

party gatekeepers) themselves have been slow to shift. The following quote from former Liberal Senator Sue Boyce is telling:

I was asked repeatedly about the abilities of my daughter with Down syndrome during my own pre-selection as though this was something I had not considered. One woman candidate in another State was told that a male candidate should get her position because 'he had a young family to support'..⁴⁵

Boyce called out the 'hypocrisy' of the Parliament as a workplace, and argued that it would discuss, but not practise, work-family life balance and rule against, but not act against, workplace bullying, harassment and sexism. The double standards adopted by the party gatekeepers are based in deeply entrenched traditional gender norms, rendering it more acceptable for a man than a woman to support a young family. In the current climate, it is hard to imagine anyone making a similar claim for women with caring responsibilities.

FAMILY-FRIENDLY PARLIAMENTS: THE WAY FORWARD

Change is of course possible. The provision of childcare facilities, allowing babies on the floor, and establishing breastfeeding rooms are all welcome parliamentary reforms. On their own, however, they are not enough. The caring duties of Australian citizens are multi-faceted, and span from children to ageing parents and to those with special needs and disabilities. Many people, including children, require varying levels of care around the clock. A creche in the parliamentary building for young children aged three years and under has clearly not been sufficient in supporting men and women parliamentarians with child care responsibilities. It is also completely unsuitable for supporting parliamentarians with other, sometimes more complex, care needs. What other measures could be considered to support a broader range of caring responsibilities?

⁴⁵ Sue Boyce, Women and Mothers in Parliament: Again!. Accessed at: https://www.aspg.org.au/wp-content/uploads/2017/08/Women-and-mothers-in-Parliament_-Again-1.pdf

The first and most obvious answer lies in creating the proper infrastructure for care. Discussing the Australian labour market as a whole, Elizabeth Hill and Sara Charlesworth note that this should include the following:

universal free high-quality early childhood education and care with robust and transparent quality standards that are publicly audited and enforced

high quality, adequately and securely resourced aged care and disability services

business models and governance arrangements for all care service providers that are transparent and fit for purpose

providers that are fully accountable for the expenditure of public money and the provision of high-quality accessible services

accessible and responsive respite, end of life and palliative care and other services to support unpaid carers

the extension of paid ‘care leave’ to all workers, including at least nine months paid parental leave incorporating three months dedicated leave for each parent

workplace flexibility that works for women and other worker-carers that gives workers voice, control, predictability and security.⁴⁶

These are, of course, not specific to the parliamentary context, but they do aptly highlight the lack of a broad policy and regulatory framework in Australia. Meaningful change in the political arena requires some attention to broader societal and cultural norms, since these also have a significant impact on the parliamentary workplace. This is particularly pertinent when it comes to the care norms and the future of care and work in Australia. In the broader social context where women continue to carry the majority of the caring responsibilities, the assumptions of women as natural carers keep being reproduced, even if inadvertently, and therefore further cemented in the culture, with obvious and predictable consequences in the paid work arena.

As such, simply removing the structural and legal barriers will not be enough to change the status quo since social norms also influence behaviour and limit choices—the low

⁴⁶ Hill and Charlesworth, ‘In 2020 Our Workforce and Our Caring System Broke’.

uptake of paid parental leave by Australian men, even when offered, is just one example of this. In this vein, making both parental and carer's leave gender neutral and removing labels such as 'primary' and 'secondary' carer would play a part in removing some of the gendered norms currently linked to caring roles. At the same time, redefining the concept of 'family', so that we do not automatically default to 'babies' or 'children', is also vital to ensure that the associated policies reflect both the diversity and the complexities of people's caring needs.

Enabling and normalising flexible work, and implementing laws and policies that ensure equal access to these measures will go some way to removing the structural barriers to political participation. Since the 1990s, the omnipresence of the internet in our daily lives has instigated a revolution in workplace debates. The advent of a global pandemic in 2020, and nation-wide lockdowns, unleashed the full potential of digital technologies in the modern workplace. Regardless of a person's family status, the question we need to ask is: how much work-related travel is reasonable during a person's career? The aforementioned example of Mr Snowden spending two years of his working life on flights alone would be a significant deterrent to most people. In addition, our changing attitudes to seasonal germs, looking after dependents who are sick, and coming to work when unwell may also necessitate a shift to online work practices. If technology can help bridge the gaps generated by distance, and reduce absences due to personal matters such as mild colds in the family, it seems that the common-sense approach would then be to create a specific, permanent workplace policy around it. In the parliamentary context, flexible work can also include changes to the sitting hours so as to avoid early mornings or late evenings, or alternatively compressing the working week by a number of days to allow Members and Senators longer periods of time in their constituencies—as has already been done in Sweden.⁴⁷

The Parliament is a unique work environment, requiring separate targeted action. As part of this, the first step should be for all building occupants (MPs, political and parliamentary staff) to reflect on and consider the adequacy of parliamentary care arrangements in meeting their varied and specific care needs. There are many tools now available for parliaments to undertake gender sensitive self-assessments or audits. In Australia, the proportion of employers consulting with employees on issues

⁴⁷ Sonia Palmieri, 'Dear 46th Parliament... A Gender Equality Wish List'. *BroadAgenda*, 29 April 2019. Accessed at: <https://www.broadagenda.com.au/2019/dear-46th-parliament/>

concerning gender equality in the workplace has showed only moderate increases since 2017, hovering just over 50 per cent.⁴⁸ Without a thorough understanding of the struggles from the insiders' point of view, it is unlikely that we will be able address either the structural or the cultural barriers.

Lastly, and while not directly related to the caring duties of parliamentarians, we need to define what constitutes acceptable behaviour in the workplace. As various surveys have shown, in particular those on young women's perceptions on politics in Australia, a large part of the population does not currently consider politics as a viable career option, and views it both hostile and sexist as a workplace. To address this, the need for a code of conduct is clear. This, along with other measures to increase diverse representation, including but not limited to gender equal representation, would in part enable more diversity in the workforce, leading to a better, more inclusive decision-making.

CONCLUSION

There has never been a clearer case for improving the work and life balance of the parliamentarians in Australia by creating a proper infrastructure for care. As it stands, the political arena remains steadfastly stereotypically masculine, and the global political participation and gender equality rankings see Australia dropping further behind other developed countries. The provisions for family-friendly work practices are both inadequate, and conceptually lacking, failing to take into account the diversity of families and how they function. The vicious circle sees politics failing to change because of lack of diversity in representation, which in turn is partly due to, and partly reinforcing, stereotypical gender norms, eventually leading back to a workplace which has so far failed to legislate adequate support for itself or for the population as a whole. In the first instance, creating flexible work policies and adequate leave provisions for parliamentarians, in consultation with parliamentarians themselves would help start shifting the discourse. True change will hinge on a holistic shift, which includes

48 Workplace Gender Equality Agency, Progress Report 2019-20. Accessed at: https://www.broadagenda.com.au/2019/dear-46th-parliament/?fbclid=IwAR32jU3kNYclFsCj3cYdd0xlXHG_a4KGBqoS19vKzpWV-pj1T6sU5cgHvm0#.XM0m0invV2A.facebookhttps://www.wgea.gov.au/sites/default/files/documents/wgea-progress-report-2019-20_0.pdf

workplace norms for acceptable behaviour being implemented and monitored, gender equality in the workplace and at home being realised, and consequently, culture being changed to accept diversity as the standard—and only acceptable—practice.

Still Lacking Her Rights at Work: The Treatment of Women Politicians in the Australian Parliament and Print News Media*

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*Double-blind reviewed article

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Abstract Anne Summers' 2012 speech entitled 'Her Rights at Work' examined the 'sexist and discriminatory treatment of Australia's first female Prime Minister', Julia Gillard, by both the Opposition and a section of the broader public. This paper will argue that Parliament is still all too often a sexist and discriminatory place of work for women politicians and that parliamentary sexism and discrimination is often exacerbated by the news media's coverage of incidents. While providing a broader background, the paper will focus on several key case studies of parliamentary events and their subsequent media coverage, including: Gillard's 'Misogyny speech'; Greens Senator Sarah Hanson-Young's 'slut-shaming'; and former Liberal MP Julia Banks' criticism of Parliament's sexism.

INTRODUCTION

In 2021, former Labor MP and Minister Kate Ellis published *Sex, Lies and Question Time*. The book described appalling sexist behaviour that she and other parliamentarians had experienced. Ellis emphasised 'how much the culture in Parliament is behind the rest

of society. It is outdated, toxic and often unfair, particularly for women'.¹ Sadly, this is not the first book penned by a former MP that focuses on sexism against women parliamentarians.² Recent years have seen a deluge of revelations from current and former women politicians, ranging from suggestions in Cabinet meetings being overlooked until a man gets credit for them, to sexist comments, weaponised sexual innuendo, sexual harassment, and gendered bullying and intimidation. Furthermore, former Deputy Liberal Leader, Julie Bishop, noted that fear of damaging their own party electorally prevents many women from complaining about sexist or illegal behaviour, giving a sense of impunity to offenders.³

Greens Senator Lidia Thorpe, a proud Gunnai Gunditjmara and Djab Wurrung woman, recently spoke out against the 'toxic culture that's been left to fester in Parliament House – a culture of racism, sexism and misogyny' that she had both observed and experienced.⁴ At the time, Thorpe had only been a Senator for six months. Greens Senator Mehreen Faruqi has also written about her negative experiences as a Muslim, migrant woman.⁵

This kind of treatment is not isolated within Parliament House—it is often endorsed and exacerbated by the mainstream print media, which plays a crucial role in our parliamentary system. As Hartley notes: 'Contemporary politics is "representative" in both senses of the term; citizens are represented by a chosen few, and politics is represented to the public via the various media...'.⁶ Consequently, the crucial role of the media in ensuring an informed citizenship and well-functioning democracy is widely recognised. However, politics is becoming increasingly mediatised; that is, 'becoming dependent in its central functions on mass media and is continually shaped

¹ Kate Ellis, *Sex, Lies and Question Time*. Wurundjeri Country: Hardie Grant, 2021, p. 9.

² Janine Haines, *Suffrage to Sufferance: A Hundred Years of Women in Politics*. North Sydney: Allen and Unwin, 1992; see also Marian Sawer and Marian Simms, *A Woman's Place: Women and Politics in Australia*. North Sydney: Allen and Unwin, 1993, pp. 118, 121.

³ Julie Bishop, 'Julie Bishop Joins 7.30 to Discuss the Workplace Culture in Parliament'. 7:30, ABC Television, 8 March 2021. Accessed at: <https://www.abc.net.au/7.30/julie-bishop-joins-7.30-to-discuss-the-workplace/13228124>

⁴ Lidia Thorpe, 'There's a Toxic Culture That's Been Left to Fester in Parliament House', Twitter, @lidia__thorpe (blog), 16 February 2018. Accessed at: https://twitter.com/lidia__thorpe/status/1361521092452511749. See also

⁵ Mehreen Faruqi, *Too Migrant, Too Muslim, Too Loud*. Crows Nest, NSW: Allen and Unwin, 2021.

⁶ John Hartley, *The Politics of Pictures*. London: Routledge, 1992, p. 35. See further Brian McNair et al. (eds), *Politics, Media and Democracy in Australia*. London: Routledge, 2017, p. 3.

by interactions with mass media'.⁷ A key component of this is journalistic news framing, which involves the 'selection, emphasis, and presentation composed of little tacit theories about what exists, what happens and what matters'.⁸ As framing concerns what is reported and how an event, person or situation is selected, presented and shaped to the audience, it can be used to support certain voices or ideologies while denouncing others.⁹ It is crucial to analyse such framing devices to understand what, exactly, is being communicated.

However, both mediatisation and framing theories tend to leave gender out of their analysis. While most politicians attempt to shape their media framing, this is something that women particularly struggle with because of the gendered nature of the media. For example, Australia's first woman Prime Minister Julia Gillard unsuccessfully tried to downplay her gender early in her term, as she did not want to "hark on" about being a woman given it was "obvious" [wanting] it to be about "doing it rather than talking about it".¹⁰ *Gendered mediation* provides a gendered lens, specifically on the use of these techniques and processes to reinforce gender norms and power relations.¹¹ Drawing from this line of thought, previous research has found that women politicians have long experienced gendered and sexist media coverage that reflects masculinist norms. Mainstream commentators frequently emphasise the gender, appearance and family life of women politicians, often using these as a source of criticism, or to trivialise and delegitimise them in their roles.¹² This is further

⁷ Gianpietro Mazzoleni and Winfried Schulz, "Mediatisation" of Politics: A Challenge for Democracy?, *Political Communication* 16(3) 1999, p. 250.

⁸ Todd Gitlin, *The Whole World Is Watching: Mass Media in the Making and Unmaking of the New Left*. California: University of California Press, 1980, p. 6; Claes H. de Vreese, 'Mediatization of News: The Role of Journalistic Framing', in Frank Esser and Jesper Strömbäck (eds), *Mediatization of Politics Understanding the Transformation of Western Democracies*. London: Palgrave Macmillan, 2014, pp. 137–55.

⁹ James W. Tankard Jr., 'The Empirical Approach to the Study of Media Framing', in Stephen D. Reese, Jr. Gandy, and August E. Grant (eds), *Framing Public Life: Perspectives on Media and Our Understanding of the Social World*. London: Lawrence Erlbaum Associates, 2001, pp. 95–106.

¹⁰ Carol Johnson, 'Playing the Gender Card: The Uses and Abuses of Gender in Australian Politics', *Politics and Gender* 11(2) 2015, p. 300.

¹¹ Linda Trimble, *Ms. Prime Minister: Media, Gender, and Leadership*. Toronto: University of Toronto Press, 2017, pp. 9–10.

¹² Karen Ross and Annabelle Sreberny-Mohammadi, 'Playing House – Gender, Politics and the News Media in Britain'. *Media Culture and Society* 19(1), 1997, pp. 101–9; Trimble, *Ms. Prime Minister*; Blair Williams, 'A Tale of Two Women: A Comparative Gendered Media Analysis of UK Prime Ministers Margaret Thatcher and Theresa May'. *Parliamentary Affairs* 72(2) 2020, pp. 398–420.

compounded for women of colour, who are ‘doubly disciplined – once on account of their gender and then again on account of their race’.¹³ This kind of sexist and racist coverage not only impacts on parliamentarians themselves but can have a bystander effect. Just witnessing sexist coverage of a woman politician can deter other women from entering politics as it ‘signals that woman considering a political career must overcome powerful informal norms’.¹⁴ It is therefore important to analyse the media coverage of women in politics, especially how they are framed, if we want to see any tangible change for women in Parliament.¹⁵

It is not possible to give a full account of the complaints made by or on behalf of women politicians in this brief article. Rather we will focus on three particularly revealing incidents: Gillard’s 2012 ‘Misogyny speech’; the alleged ‘slut-shaming’ of Greens Senator Sarah Hanson-Young in 2018; and former Liberal MP Julia Banks’ critiques of parliamentary sexism, including within her own party. We examined media framing in coverage of these incidents from a range of Australian newspapers, though we note that this is a representative not a total sample. This paper argues not only that Parliament is often a sexist workplace for women parliamentarians but that the news media frequently exacerbates their situation rather than critiquing it.

JULIA GILLARD

Anne Summers’ August 2012 speech, ‘Her Rights at Work’, examined the ‘sexist and discriminatory treatment of Australia’s first female Prime Minister’, Julia Gillard, by both the Opposition and sections of the broader public. Summers argued that the treatment of Gillard constituted bullying according to the definition of the Commonwealth health and safety agency and would have been ‘outlawed under both

¹³ Erin Tolley, ‘Breaking the Concrete Glass Ceiling: Media Portrayals of Racialised Women in Politics’, in Angelia Wagner and Joanna Everitt (eds), *Gendered Mediation: Identity and Image Making in Canadian Politics*. Vancouver, BC: UBC Press, 2019, pp. 106–26.

¹⁴ Amanda Haraldsson and Lena Wängnerud. ‘The Effect of Media Sexism on Women’s Political Ambition: Evidence from a Worldwide Study’. *Feminist Media Studies* 19(4) 2019, p. 534.

¹⁵ Social media is also an important aspect to examine, due to the high rates of misogynistic abuse towards women in politics, and a code of conduct is needed for social media companies. However, this is beyond the scope of our paper.

the Sex Discrimination Act and Fair Work Australia'.¹⁶ Gillard had long been subject to sexist behaviour by parliamentary opponents, that had escalated after the 'coup' in which she replaced Kevin Rudd as leader.¹⁷ The Liberals suggested that Gillard was devious and unusually bloodthirsty for a woman. Liberal MP Christopher Pyne stated that: 'Comparing her to Lady Macbeth is unfair on Lady Macbeth—she only had one victim to her name; this Prime Minister has a list of victims longer than Richard III'.¹⁸ Tony Abbott alluded to Gillard being unmarried in his assertion that: 'if the Prime Minister wants to make, politically speaking, an honest woman of herself, she needs to seek a mandate for a carbon tax'.¹⁹ He denounced the Government's carbon price as 'the mother of all taxes', thereby suggesting that Gillard had perversely given birth to a tax rather than a child.²⁰ Gillard had long been targeted for not having children, including being depicted as 'deliberately barren'.²¹

Gillard's famous 'misogyny' speech needs to be understood in the light of those previous sexist attacks and also in the immediate context of her response to a speech by Tony Abbott regarding Peter Slipper. Slipper, a former Coalition member, became Speaker of the House of Representatives in 2011, thereby shoring up the minority Gillard Government's numbers on the floor of the House. Abbott's speech attacked a text message that Slipper had sent (before becoming Speaker) in which he disparaged female genitalia. Abbott argued that Slipper was 'no longer a fit and proper person' to hold the position of Speaker and accused Gillard's Government of hypocrisy for not acting on Slipper's 'misogyny'.²²

¹⁶ Anne Summers, 'Her Rights at Work' (R-rated version). 2012 Human Rights and Social Justice Lecture, University of Newcastle, 31 August 2012. Accessed at: <https://www.annesummers.com.au/a/42277/her-rights-at-work--r-rated-version->.

¹⁷ See further Marian Sawyer, 'Misogyny and Misrepresentation: Women in Australian Parliaments'. *Political Science* 65 (1) 2013, pp. 105-17.

¹⁸ Christopher Pyne, Commonwealth, *Parliamentary Debates*, House of Representatives, 8 February 2012, pp. 287-288.

¹⁹ Malcolm Farr, 'Tony Abbott Tells Julia Gillard to 'Make an Honest Woman of Herself' on Carbon Tax'. *news.com.au*, 25 February 2011. Accessed at: <http://www.news.com.au/national-news/tony-abbott-tells-julia-gillard-to-make-an-honest-woman-of-herself-on-carbon-tax/story-e6frfkvr-1226012034629>.

²⁰ Farr, 'Tony Abbott Tells Julia Gillard'.

²¹ Sawyer, "Misogyny and Misrepresentation", p. 111

²² Tony Abbott, Commonwealth, *Parliamentary Debates*, House of Representatives, 9 October 2012, pp. 11574-5.

In her response to Abbott, Gillard criticised Slipper's comments, saying she was 'offended' by their 'sexism' and their 'anti-women' content 'in the same way I have been offended by things the Leader of the Opposition has said'.²³ Nonetheless, Parliament should wait for the outcome of an ongoing court case against Slipper, who had stood aside. However, the major focus of Gillard's speech was on Abbott's own hypocrisy, since 'if he wants to know what misogyny looks like in modern Australia he does not need a motion in the House of Representatives; he needs a mirror'.²⁴ Gillard then went on to quote various examples of Abbott's sexism and misogyny. Gillard also criticised Abbott's sexist behaviour in Parliament, saying he would never have catcalled equivalent comments to a male Prime Minister or yelled at a male Prime Minister to shut up.

Gillard's 'Misogyny Speech' resonated with many women in Australia, and around the world. Footage of the speech rapidly 'went viral' on social media and was praised by several world leaders.²⁵ Yet, the Canberra press gallery was largely dismissive. The Murdoch press coverage of Gillard's speech was particularly critical, portraying it as a strategic attack, a controlled emotional outburst, an act of hypocrisy, or part of a larger 'gender war'.²⁶ In addition, newspaper coverage in the following week frequently framed Gillard as playing the victim in addition to the 'gender card' or 'betraying' feminism, while it was claimed that her accusations about Abbott did not demonstrate sexism and that she risked further isolating male voters.

The print media largely framed Gillard as playing the 'victim card' for daring to call out sexism and misogyny. As she had previously steered away from the topic, many journalists assumed that she was now addressing it to distract from the Slipper issue. For example:

Gillard sought to portray Mr Abbott as anti-women in a transparent effort to use attack as a distraction and to assume victim status for herself It

²³ Commonwealth, *Parliamentary Debates*, House of Representatives, 9 October 2012, p. 11582.

²⁴ Gillard, Commonwealth, *Parliamentary Debates*, House of Representatives, 9 October 2012, p. 11581.

²⁵ Katharine A.M. Wright and Jack Holland, 'Leadership and the Media: Gendered Framings of Julia Gillard's 'Sexism and Misogyny' Speech'. *Australian Journal of Political Science* 49(3) 2014, pp. 455-468.

²⁶ Wright and Holland, 'Leadership and the Media'; Ngaire Donaghue, 'Who Gets Played By 'The Gender Card'?'. *Australian Feminist Studies* 30(84) 2015, pp. 161-78; Linda Trimble, 'Julia Gillard and the Gender Wars', *Politics and Gender* 12(2) 2016, pp. 296-316.

was disappointing to see the Prime Minister seek the solace of victimhood to protect herself from a sordid scandal of her own making.²⁷

Once again, Gillard reached for anything – the gender card, the victim card, a gotcha²⁸

Other articles accused her of performing ‘phoney hysteria’,²⁹ or quoted Liberal women who admitted to experiencing abuse but ‘would never play the “victim card”’.³⁰ Numerous voices in the media dismissed the concerns she raised and questioned her legitimacy and credibility as a leader. These critiques reflect the pressure exerted on all women to ‘ignore instances of sexism to avoid creating a sense of themselves as victims’,³¹ both in their workplace as well as other areas of society. Those who speak up are often dismissed and accused of being ‘phonies’ or ‘hysterical’. Women who call out sexism are frequently considered ‘bad women’ as they challenge male dominance and are therefore made an example of to send a message to all women that this is what they risk if they follow in their footsteps.

According to media coverage of the speech, Gillard was also ‘playing the gender card’ and inciting a ‘gender war’. The former phrase is commonly used to dismiss a woman for calling out sexism, implying that she does so strategically and so denying ‘any possibility that [she] might do so out of genuine grievance’.³² The latter is a metaphoric device used to portray any discussions relating to gender and sexism as ‘acts of extreme political violence,’ with the aim of silencing or punishing those who raise these issues in the political realm.³³ Gillard was therefore depicted as weaponising gender:

²⁷ ‘The PM, the Speaker, His Texts and Their Misogyny’. *The Australian*, 10 October 2012, p. 13.

²⁸ Andrew Bolt, ‘Shameless: A Woman of No Principle’. *Herald-Sun*, 11 October 2012, p. 15.

²⁹ ‘The PM, the Speaker’.

³⁰ Milanda Rout, ‘Lib Women Cop Abuse, Too, but They Don’t Play the ‘Victim Card’’. *The Australian*, 12 October 2012, p. 4.

³¹ Donaghue, ‘Who Gets Played?’.

³² Donaghue, ‘Who Gets Played?’, p. 164.

³³ Trimble, ‘Julia Gillard and the Gender Wars’, p. 297.

It was a deliberate decision by Gillard to use her gender as both her primary defence and her method of direct attack against Abbott's greatest perceived vulnerability.³⁴

Playing the gender card is the pathetic last refuge of incompetents and everyone in the real world knows it.³⁵

Dennis Shanahan's *Australian* op-ed embodies this metaphor, arguing that the Government has 'launched a gender war' and labelling Gillard as a self-appointed 'gender-general and commander-in-chief' who had 'become the arbiter of sexist and misogynist behaviour'.³⁶ By accusing Gillard of playing the gender card or commanding the so-called gender wars, the Australian media dismissed her concerns, reprimanded her for challenging the sexist political status quo and attempted to shut down further conversations about gender and sexism.

The content of Gillard's speech was further dismissed by some in the media, who argued that her examples of Abbott's history of sexism were not evidence of his misogyny. As part of this 'blame game' narrative, numerous journalists claimed Gillard's accusations against Abbott were exaggerated and a distraction from the 'real' issue at hand:

That metaphor is the blame game Yes, they [Abbott's past actions] are unacceptable. It is equally obvious they do not constitute misogyny ... the misogynist card is just another tactic.³⁷

That defence was based almost entirely on vilifying Opposition Leader Tony Abbott as a 'misogynist' himself – a ludicrous non-sequitur. Moreover, the examples Gillard chose were pathetic.³⁸

Miranda Devine's article in the *Sunday Telegraph* rejected Gillard's 'self-indulgent performance calling out Tony Abbott on misogyny' and measured it against women's oppression elsewhere in the world:

³⁴ Jennifer Hewett, 'Gender Agenda Unravels'. *The Australian Financial Review*, 11 October 2012, p. 1.

³⁵ Miranda Devine, 'Gender Card Is a Loser'. *Sunday Telegraph*, 14 October 2012, p. 41.

³⁶ Dennis Shanahan, 'PM's Gender War Ends in a Spectacular Self-Wedge'. *The Australian*, 12 October 2012, p. 1.

³⁷ Paul Kelly, 'Misogyny Tactic Will Backfire'. *The Australian*, 13 October 2012, p. 1.

³⁸ Bolt, 'Shameless: A Woman of No Principle'.

Misogyny is the Taliban shooting a 14-year-old girl in the face because she wants an education, not an opposition leader directing legitimately forceful criticism against a government ... What Gillard objects to is that Abbott holds a different opinion to hers.³⁹

This logical fallacy—known as ‘whataboutism’—is a derailing technique used in response to ‘a difficult issue or question with a counter issue or question,’⁴⁰ and is often used by social conservatives to silence any discussions about feminist issues at home, because women elsewhere have it worse. Devine’s claimed concern for women in Afghanistan is used here to silence, dismiss and derail Gillard from speaking about sexism in politics in Australia.

Likewise, some critics accused Gillard of ‘betraying’ feminism by supposedly protecting Slipper. One article in particular declared that Gillard had ‘debas[ed] ... the feminist ideals that Canberra’s Labor sisterhood holds so dear’, accusing her argument of being ‘barren’ and her speech of ‘not Stalinism, [but] Gillardism’.⁴¹ The term ‘barren’ is highly gendered, given the ‘deliberately barren’ comments noted earlier. Comparing Gillard’s speech to Stalinism draws on the age-old ‘reds under the beds’ stereotype that associates the Labor Party with communist authoritarianism and feminism with totalitarianism. Gillard is here accused of corrupting feminism by supposedly playing the ‘gender card’ as a tool of political salvage, thereby ‘rendering [feminist politics] useless for [her] own purposes ... [and damaging] these arguments for future use’.⁴²

For the media, her ‘strategic’ speech backfired and many noted how it would affect her status among men. As Gillard’s speech called out sexism, apparently not considered a ‘real issue’ by some in the media, it was alleged that she risked isolating ‘blue-collar working men’ with ‘legitimate’ concerns, such as ‘fearing job losses’.⁴³ Two *Australian* articles illustrate this clearly: one argued that Gillard’s ‘problem with blue-collar men won’t be helped by accusations of sexism’⁴⁴ while another conceded that Abbott ‘has

³⁹ Devine, ‘Gender Card Is a Loser’.

⁴⁰ Jessica Eaton, ‘Stop Asking Me “What about Men?”’. *Journal of Gender-Based Violence* 2(2) 2018, pp. 391–95.

⁴¹ ‘Sisterhood’s Misogyny Campaign a Charade’. *The West Australian*, 13 October 2012, p. 29.

⁴² Donaghue, ‘Who Gets Played By ‘The Gender Card’?’, p. 172.

⁴³ Dennis Shanahan, ‘Grubby Attempts to Smear Abbott as a Hater Will Leave Labor Base Unimpressed’. *The Australian*, 13 October 2012, p. 1.

⁴⁴ Shanahan, ‘PM’s Gender War Ends in a Spectacular Self-Wedge’.

a woman problem. But this performance will only accentuate Gillard's men problem'.⁴⁵ By calling out sexism and misogyny, Gillard transgressed the rules of the boy's club *and* subverted the norms of femininity. 'Good women' are supposed to support and comfort men, not confront and humiliate them by forcing 'them to face up to uncomfortable truths about their discriminatory social attitudes'.⁴⁶ As a result, the media often punished Gillard and portrayed her speech as a salvo in her 'gender wars' that indicated her desire to play the victim and willingness to betray feminism, dismissing her evidence against Abbott and thereby permitting the sexist abuse against which she spoke out.

SARAH HANSON-YOUNG

Like Gillard, Sarah Hanson-Young had experienced a long history of bad behaviour before the specific case study we analyse. Hanson-Young describes the sexist psychological abuse that left her avoiding question time or leaving early:

It started as off-hand comments. Things about my dress. I had an MP comment - he had worked out it was my period this week. Names of men rumoured that I slept with whispered to me as they walk past me in the chamber, as we're sitting down to vote. All those things that are designed as mind warfare. To fuck with your head so that you can't deliver.⁴⁷

It became a 'humiliating' male 'sport'.⁴⁸ Some sexualised comments were even made publicly and recorded in Hansard. Senator Barry O'Sullivan complained that Hanson-Young had not turned up to an inquiry and that there was 'a bit of Nick Xenophon in her—and I don't mean that to be a double reference. But there's a bit of Xenophon in her—references committees and not attending'.⁴⁹

⁴⁵ Kelly, 'Misogyny Tactic Will Backfire'.

⁴⁶ Carol Johnson, 'Playing the Gender Card: The Uses and Abuses of Gender in Australian Politics'. *Politics and Gender* 11(2) 2015, pp. 291-319.

⁴⁷ 'Chamber of Silence'. *Australian Story*, ABC, 29 March 2021. Accessed at: <https://www.abc.net.au/austory/chamber-of-silence/13275176>.

⁴⁸ Ellis, *Sex, Lies and Question Time*, pp. 43-44

⁴⁹ Barry O'Sullivan, Commonwealth, *Parliamentary Debates*, Senate, 27 November 2018, p. 8690.

In June 2018, the Senate had been debating a motion dealing with violence against women when Senator David Leyonhjelm yelled: ‘You should stop shagging men, Sarah’.⁵⁰ Leyonhjelm later incorrectly claimed that he had been responding to Senator Hanson-Young saying ‘something to the effect that all men are rapists’.⁵¹ In subsequent media interviews,⁵² which were not protected by parliamentary privilege,⁵³ Senator Leyonhjelm doubled down on his comments, suggesting that Sarah Hanson-Young was a ‘misandrist’ and a ‘hypocrite’ for having what he implied were multiple relationships with men.⁵⁴ Hanson-Young accused Leyonhjelm of ‘slut shaming’ her. She ‘decided at that moment I’d had enough of men in that place using sexism and sexist slurs, sexual innuendo as part of their intimidation and bullying on the floor of the Parliament’.⁵⁵ Hanson-Young sued Leyonhjelm for defamation and won a Federal Court case.

Hanson-Young declared her satisfaction that the judgment proved that parliamentarians were not above the law and sent ‘a timely and critical message that women deserve to be safe and respected in our workplaces’.⁵⁶ She stated she would donate Leyonhjelm’s defamation payment to two organisations that supported women at work: Plan International and the South Australian Working Women’s Centre. Leyonhjelm then sought leave to appeal to the High Court but this was subsequently rejected. However, Hanson-Young had the legal advantage that Leyonhjelm had doubled-down on his comments outside of Parliament, as parliamentary privilege

⁵⁰ David Leyonhjelm, Commonwealth, *Parliamentary Debates*, Senate, 28 June 2018, p. 4362.

⁵¹ David Leyonhjelm, Commonwealth, *Parliamentary Debates*, Senate, 14 August 2018, p. 4707.

⁵² See *Leyonhjelm v Hanson-Young* (2021) FCAFC 22 (Rares, Wigney and Abraham JJ).

⁵³ ‘Parliamentary Privilege’, *Infosheet 5*, House of Representatives, March 2020. Accessed at: https://www.aph.gov.au/About_Parliament/House_of_Representatives/Powers_practice_and_procedure/00_-_Infosheets/Infosheet_5_-_Parliamentary_privilege.

⁵⁴ See *Leyonhjelm v Hanson-Young*.

⁵⁵ ‘David Leyonhjelm ‘Slut Shaming Me’ With ‘Stop Shagging Men’ Remark, Sarah Hanson-Young Says’. ABC Radio National, 3 July 2018. Accessed at: <https://www.abc.net.au/news/2018-07-03/david-leyonhjelm-sarah-hanson-young-slut-shaming-shagging-men/9934114>.

⁵⁶ ‘David Leyonhjelm Loses Appeal Bid, Must Pay \$120,000 for Defaming Sarah Hanson-Young’. *ABC News Online*, 3 March 2021. Accessed at: <https://www.abc.net.au/news/2021-03-03/sarah-hanson-young-david-leyonhjelm-defamation-appeal/13210042>.

protects parliamentarians who make outrageous comments on the floor of Parliament.⁵⁷

Though Parliament's sexist culture clearly has not changed since Gillard's era, strides have been made in mainstream media coverage of women politicians who relate their experiences of sexism in the workplace. However, some sexism remains. In fact, we found many of the same frames identified above with the Misogyny Speech in coverage of Hanson-Young, such as: playing the victim; dismissing claims of sexism; and the risk of further isolating male voters.

Some voices in the media, particularly from the Murdoch press, dismissed Hanson-Young's criticisms of Leyonhjelm. Miranda Devine's *Daily Telegraph* article, for example, accused Hanson-Young and all feminists of 'play[ing] the victim'; as 'ball-breakers' who 'break taboos' but, when they 'get a taste of discourteous reciprocation', such as being slut-shamed in the workplace, 'melt like crybabies'.⁵⁸ Arguing that women should instead worry about 'the very concept of womanhood being "culturally appropriated"' by trans and non-binary people, Devine belittles and deflects Hanson-Young's experiences of sexism to not only silence these discussions, but to further her own trans-exclusionary ideology. Hanson-Young's criticism was also portrayed as isolating male voters, while Leyonhjelm's behaviour was regarded as appealing to them:

A considerable number of people are impressed by what they see as his single digit rampant to modern, developed-world, fainting-couch feminism.⁵⁹

There are enough voters – mostly older white men – who share his resentments and imagine themselves as hostages to political correctness.⁶⁰

This demonstrates an expectation for women to remain silent in the face of abuse to ensure men's comfort, power and privilege. Like Gillard, Hanson-Young subverted both

⁵⁷ For more information on the protections provided to politicians, see 'Parliamentary Privilege', Infosheet 5, House of Representatives.

⁵⁸ Miranda Devine, 'Time We All Woke Up'. *Daily Telegraph*, 8 July 2018, p. 27.

⁵⁹ Helen Dale, 'Shades of Britain as Australia Goes Bonkers for Sex Scandals in High Places'. *The Australian*, 7 July 2018, p. 21.

⁶⁰ Jack Waterford, 'Political Bile Finds Its Level'. *Canberra Times*, 7 July 2018, p. 1.

gender and parliamentary norms by calling out the sexist abuse she experienced and was therefore punished by some in the media.

Yet this trend does appear to be changing, with more voices in the media rallying in support of Hanson-Young. Unlike the reticence on the part of many media commentators to follow Gillard in identifying her experiences as instances of misogyny, most articles acknowledged Leyonhjelm's comments as 'slut-shaming',⁶¹ which indicates some progress. Leyonhjelm was widely labelled a 'grub' and criticised for his sexist comments:

... he demonstrated he's not bound by the concept of basic decency.⁶²

He slathered on a bit of slut-shaming just for fun. And we are paying this guy.⁶³

Numerous articles directed their ire at the institutionalised sexism rife in Parliament, which normalises sexism and harassment against women politicians:

The message is clear: you can be whatever you want, just don't enjoy shagging as much as the next man if you want to be taken seriously.⁶⁴

If, in 2018, women in ... Parliament can suffer sexualised insults without penalties, then women with far less privilege have nowhere to turn.⁶⁵

The rise of the #MeToo movement has had a global impact on how we perceive consent, sexual assault and harassment, and has inspired many survivors of sexual violence to share their stories.⁶⁶ Its influence is apparent in the media which, though still dominated by a 'blokey' hypermasculine newsroom culture despite more women in the profession,⁶⁷ is becoming far more supportive of open discussions about sexism, misogyny and sexual harassment. Nonetheless, it was the media that allowed

⁶¹ Savva, 'Bill Burns Business Then Dodges the Blame'.

⁶² Georgia Willis, 'What Could Have Been If Abbott Had Kept His Word'. *Sun Herald*, 8 July 2018, p. 31.

⁶³ Tory Shepherd, 'Clearing the Air about Waging Wars on Drugs'. *The Advertiser*, 4 July 2018, p. 13.

⁶⁴ Jill Poulsen, 'Politics of Sex Is Still Bonkers'. *Courier Mail*, 7 July 2018, p. 48.

⁶⁵ Hugh Conly and Stephanie Dowrick, 'Outrage Is Long Overdue'. *Canberra Times*, 7 July 2018, p. 10.

⁶⁶ Kaitlynn Mendes, Jessica Ringrose, and Jessalynn Keller, '#MeToo and the Promise and Pitfalls of Challenging Rape Culture Through Digital Feminist Activism'. *European Journal of Women's Studies* 25(2) 2018, pp. 236–46.

⁶⁷ Louise North, 'The Gender of "Soft" and "Hard" News', *Journalism Studies* 17(3) 2016, pp. 356–73.

Leyonhjelm to amplify his claimed ‘slut-shaming’ comments in the first place, supported by a Parliament that condoned them by silence.

JULIA BANKS

Liberal MP Julia Banks announced in August 2018, after Malcolm Turnbull was deposed as leader, that she would not recontest Chisholm at the next election. Banks stated that she had experienced ‘bullying’ and ‘intimidation’ against women ‘both from within my own party and from the Labor Party’.⁶⁸ In November 2018, Banks announced that she was leaving the Liberal Party to sit on the crossbench. Banks too had experienced a history of sexist behaviour. She had initially joined the Liberal Party in response to calls for more women to stand, thinking that ‘I’ve got a lot to give them in terms of my twenty five years of experience in the legal and corporate sector’.⁶⁹ However, Banks found that ‘in relation to women’ the Liberal Party ‘was decades behind the business world’.⁷⁰ As she summed it up: ‘Casual sexism throughout our federal Parliament is what I witnessed and observed and experienced myself...’. Furthermore, in 2021 Banks added to her previous allegations in her book *Power Play*, stating that that she had also been inappropriately touched by a Cabinet Minister.⁷¹ Banks did not name the Minister, a decision that may well have been influenced by defamation considerations. Significantly, the inclusion of a public interest defence in the new uniform changes to Australia’s defamation laws may facilitate naming alleged wrongdoers in future—a development that would also have major implications for the broader media.⁷²

In her November 2018 statement to Parliament, Banks had both noted the problems and suggested some solutions, including gender quotas and better protection and more respect for women who spoke out:

⁶⁸ Julia Banks, ‘Statement’, 29 August 2018. Accessed at: <http://juliabanks.com.au/media-release/statement/>.

⁶⁹ ABC, ‘Chamber of Silence’.

⁷⁰ ‘“It Became a House of Horrors”: Julia Banks Opens Up on The Project on Her Exit from the Liberal Party’. *Women’s Agenda*, 10 March 2019. Accessed at: <https://womensagenda.com.au/latest/it-became-a-house-of-horrors-julia-banks-reveals-on-the-project-truth-about-her-exit-from-the-liberal-party/>.

⁷¹ Julia Banks, *Power Play: Breaking Through Bias, Barriers and Boys’ Clubs*. Richmond: Hardie Grant, 2021, pp. 156-7.

⁷² See Michael Douglas, ‘Defamation Actions and Australian Politics’, *UNSW Law Journal Forum*, No. 5, July 2021, pp. 10-12.

Equal representation of men and women in this Parliament is an urgent imperative which will create a culture change. There's the blinkered rejection of quotas and support of the 'merit myth' but this is more than a numbers game There is also a clear need for an independent and whistleblower system as found in many workplaces to enable reporting of misconduct of those in power without fear of reprisal or retribution. Often when good women 'call out' or are subjected to bad behaviour – the reprisals, backlash and commentary portrays them as the bad ones; the liar, the troublemaker, emotionally unstable or weak, or someone who should be silenced.⁷³

Banks herself received poor treatment in response to her complaints. Then Liberal MP Craig Kelly stated that she should be prepared to 'roll with the punches in this game', a particularly unfortunate choice of words given the high level of domestic violence against women.⁷⁴ Scott Morrison stated that he was making it clear to Liberal Party politicians that bullying and intimidation were not acceptable. However, he also implied that Banks was emotionally vulnerable, saying that he was concerned for her 'welfare and wellbeing' and was 'reaching out to Julia and giving her every comfort and support for what has been a pretty torrid ordeal for her'.⁷⁵ The Prime Minister's Office subsequently denied accusations that such comments had involved 'gaslighting' Banks as being overly emotional, claiming that Banks had been given genuine support to deal with a time that many found difficult.⁷⁶

Banks' resignation announcement amid claims of bullying came only months after the Hanson-Young case. It is therefore unsurprising that the media response to Banks

⁷³ Julia Banks, Commonwealth, *Parliamentary Debates*, House of Representatives, 27 November 2018, p. 11571.

⁷⁴ Patricia Karvelas, 'Julia Banks has Some 'Home Truths' for the Liberal Party, But They Point to a Bigger Problem'. *ABC News Online*, 29 August 2018. Accessed at: <https://www.abc.net.au/news/2018-08-29/julia-banks-home-truths-liberal-party/10178708>; Matthew Doran and Lucy Sweeney, 'Liberal MP Julia Banks Not Contesting Next Federal Election, Says Leadership Spill Was 'the Last Straw''. 29 August 2018. Accessed at: <https://www.abc.net.au/news/2018-08-29/julia-banks-not-re-contesting-seat-at-next-federal-election/10177360>.

⁷⁵ Transcript, Prime Minister Press Doorstop Interview, Padstow, Sydney, 29 August 2018. Accessed at: <https://www.pm.gov.au/media/doorstop-interview-sydney-0>.

⁷⁶ Spokesperson for Morrison cited in Finn McHugh, 'Tanya Plibersek Accuses Scott Morrison of 'Typical Gaslighting' after PM Denies Julia Banks' Account of Her Resignation'. *The Australian*, 6 July 2021. Accessed at: <https://www.theaustralian.com.au/breaking-news/tanya-plibersek-accuses-scott-morrison-of-typical-gaslighting-after-pm-denies-julia-banks-account-of-her-resignation/news-story/c23a9fd28b0a8a5d56a35bdeeb9114c2>

followed a similar pattern. Both politicians experienced supportive as well as negative coverage that framed them as playing the 'victim', doubting their accusations and deflecting the issue at hand. For example, the behaviour of then-Opposition Leader, Bill Shorten, and other men in the Labor Party was used by some in the conservative press to deflect from the criticism raised by Banks.⁷⁷

Like Gillard and Hanson-Young before her, Banks too was framed as playing the victim by detractors.⁷⁸ Andrew Bolt's article, titled 'Victim is no hero', doubted Banks' claims and argued that she 'simply had to claim to be a victim, and she was believed'.⁷⁹ Bolt classified this sequence of events as a 'witch-hunt-without-witches' and labelled Banks 'the Great Sufferer. The eternal female victim whose idea of fighting was to quit and complain'. He argued that Banks 'hadn't yet given us evidence that she's been bullied. But she has shown me she's weak'. This trope closely follows that of 'disbelief'. Women who call out sexism, such as Banks, Hanson-Young or Gillard, are assumed to be playing the victim because enablers and regulators of the patriarchy do not consider their criticisms to be 'real' instances of sexism, misogyny, or bullying. Numerous articles took a similar stance, for example:

Is bullying in the eye of the beholder, girls?⁸⁰

So where are the male complaints of bullying? Hmm.⁸¹

Here is identity politics at work again: women with an axe to grind whingeing about male bullies and being believed by a media too scared of seeming sexist to ask for proof.⁸²

These tropes exacerbate sexist abuse in Australian politics by silencing those who speak up about sexism and bullying while shutting down further conversations about these issues, which are implied to be non-existent. They uphold the patriarchal parliamentary norms that excuse and protect those men who abuse their power and

⁷⁷ Andrew Bolt, 'Victim Is No Hero'. *Herald Sun*, 3 September 2018, p. 13; Renee Viellaris, 'Banks Should Be a Catalyst for Change'. *Courier Mail*, 3 September 2018, p. 13.

⁷⁸ Viellaris, 'Banks Should Be a Catalyst for Change'; Bolt, 'Victim Is No Hero'.

⁷⁹ Bolt, 'Victim Is No Hero'.

⁸⁰ 'Last Post'. *The Australian*, 11 September 2018, p. 13.

⁸¹ Ticky Fullerton, 'Bullying or Just Politics?'. *The Australian*, 14 September 2018, p. 14.

⁸² Andrew Bolt, 'No Proof of Liberal Bullying, so How about an Apology?'. *Courier Mail*, 13 September 2018, p. 14.

women who remain silent, whether through complicity or fear. As Bolt writes, ‘until she tells us, no one can assume the Liberals have a problem’.⁸³

As with the case of Hanson-Young, however, Banks’ accusations were largely supported by many in the media. Some used her case to examine wider issues of institutional sexism. An article in the *Hobart Mercury* identified a pattern extending from the mockery of former-Deputy Liberal Leader Julie Bishop for throwing her hat into the 2018 leadership spill to the gendered treatment of former-Prime Minister Julia Gillard, concluding that ‘politics is in many ways unfriendly to women’.⁸⁴ Others criticised the sexism embedded in the Liberal Party:

Through this process, Liberals also have managed something I didn’t think possible: to further discourage women from voting for them or joining their ranks.⁸⁵

Liberal women are, finally, and spectacularly, rebelling. They are not ... petals or princesses. They are pissed off ... We can all see it is no meritocracy and blokes run the show.⁸⁶

Banks’ accusations partly reignited a call for gender quotas in the Liberal Party, with many in the media linking their ‘women problem’ to the stark lack of women in government.⁸⁷ One article called such absence ‘reprehensible’⁸⁸ while another argued that ‘the only way ... the Liberal Party can really fight the prejudice against women is to bring in a preselection quota’.⁸⁹ These examples demonstrate a positive change in media coverage of women politicians speaking out against sexism. However, it is important to note that many of these supportive articles appeared alongside others

⁸³ Bolt, ‘Victim Is No Hero’.

⁸⁴ Wayne Crawford, ‘Liberals’ Problem with Women’. *Hobart Mercury*, 8 September 2018, p. 30.

⁸⁵ Peter van Onselen, ‘Reactionary Liberals Won’t Rest until They Get Their Way’. *The Australian*, 1 September 2018, p. 22.

⁸⁶ Julia Baird, ‘Liberal Women on the Warpath’. *Canberra Times*, 8 September 2018, p. 12.

⁸⁷ John Warhurst, ‘The Bigger Issues after Turmoil’. *Canberra Times*, 6 September 2018, p. 17; Crawford, ‘Liberals’ Problem with Women’; Hayley Sorensen, ‘Time for Liberal’s Quota on Women’. *Northern Territory News*, 9 September 2018, p. 13.

⁸⁸ Warhurst, ‘The Bigger Issues after Turmoil’.

⁸⁹ Sorensen, ‘Time for Liberal’s Quota on Women’.

that *reinforced* their sexist treatment. Nevertheless, these articles play an important role in changing the norms of how women in politics are treated.

CONCLUSION AND RECOMMENDATIONS

In 2018 Federal Liberal MP Rowan Ramsey stated that: ‘It is a bit of mystery why we don’t have more women in the Parliament. Maybe it’s something about the workplace that is making them reluctant’.⁹⁰ The examples given in this paper suggest that Parliament can indeed be a toxic environment for women. Julia Banks and Kate Ellis are not the only former MPs to suggest that changes need to be made not only to address sexist behaviour but to transform how Parliament operates⁹¹. Julie Bishop has argued that ‘the environment, the conventions, the protocols, were all established at a time when there were no women ... or very few women in Parliament and it’s taken a very long time for there to be a change’.⁹² Consequently, Bishop advocates ‘basic and fundamental structural change [that could include] induction programs, a proper formalised training programs, an independent complaints system so that people feel protected and secure if they do make a complaint’.⁹³

Length considerations prevent us from providing detailed recommendations here. However, we agree with such proposals. In particular, we endorse the wording of the proposed Code of Conduct for the Parliament of Australia detailed in the Introduction to the special issue of this journal, along with the associated recommendations by the Australian Political Studies Association and Global Institute for Women’s Leadership, including those dealing with how complaints should be independently handled.⁹⁴ Furthermore, we would add the need for political parties themselves to ensure that MPs do not make sexist comments. Parties need to make it clear that such comments

⁹⁰ Daniel McCulloch, ‘PM Rejects Gender Quota for Liberals’. *InDaily*, 11 September 2018. Accessed at: <https://indaily.com.au/news/2018/09/11/pm-rules-out-gender-quotas-for-liberals>.

⁹¹ See Jenny Macklin and Kate Thwaites, *Enough is Enough*. Clayton: Monash University Publishing, 2021.

⁹² Bishop, ‘Julie Bishop Joins 7.30’.

⁹³ Bishop, ‘Julie Bishop Joins 7.30’.

⁹⁴ See Australian Political Studies Association and The Global Institute for Women’s Leadership, *Towards a New Code of Conduct: Submission to the Independent Inquiry Into Commonwealth Parliamentary Workplaces*, 2021. The authors are amongst the signatories to this submission. Accessed at: <https://giwl.anu.edu.au/sites/default/files/docs/2021/7/Full%20Submission%20to%20Jenkins%20Inquiry.pdf>

are unacceptable and that they will detrimentally impact on MPs' future career prospects. Political parties need to establish their own robust complaints structures that can deal with issues that fall outside of the jurisdiction of the parliamentary complaint mechanisms advocated for above. These structures could build on, and strengthen, existing party procedures for dealing with issues such as bullying and sexual harassment.⁹⁵ Such reforms need to be reinforced by changes in the broader culture so that poor behaviour is penalised by voters as well.

The media has a crucial role to play in revealing and critiquing sexist behaviour rather than exacerbating it. By examining the frames that the media used in their coverage of Gillard, Hanson-Young and Banks, we identified four negative frames that appeared in all three cases: playing the victim, dismissing claims of sexism, and deflection or whataboutism. Gillard and Hanson-Young were also subject to the 'further isolating male voters' frame. There have been obvious changes in coverage since the Gillard era, thanks largely to the #MeToo movement and the resurgence of feminism in the mainstream. We observed that the coverage Hanson-Young and Banks shared the positive 'institutionalised sexism' frame, and found that a further frame for each politician: acknowledging 'slut-shaming' in the case of Hanson-Young and the Liberal's women problem in the case of Banks.

In 2021, we have seen big strides in the media coverage both of women in politics and sexual assault allegations. Women journalists, for example, broke the stories that ignited the March4Justice movement, from Samantha Maiden uncovering the Brittany Higgins allegation and Louise Milligan resurfacing the historic rape allegation against then-Attorney General Christian Porter, to Laura Tingle, Leigh Sales, Karen Middleton, Lisa Wilkinson, Katherine Murphy, Amy Remeikis and Tracy Grimshaw, among others, who continue to report on these issues. However, certain corners of the media continue to portray women politicians—especially those who call out sexism and misogyny—in a trivialising, delegitimising and even sexist manner. Through repeating these messages, they re-enforce toxic gender norms and stereotypes while silencing discussions on sexism in politics.

⁹⁵ See for example, The Liberal Party of Australia: *Complaints and Dispute Resolution Policy*. Accessed at <https://cdn.liberal.org.au/pdf/Complaints%20and%20Dispute%20Resolution%20Policy%202019V2.pdf>; Australian Labor Party, *ALP National Complaints Handling Process*. Accessed at: <https://www.alp.org.au/media/2351/alp-national-complaints-handling-process.pdf>.

To achieve tangible change in political culture so that Parliament is a safe work environment for *all*, political editors, journalists and commentators need to analyse critically the gendered messages they might be communicating. A simple way of achieving this for more subtle instances of sexist reportage would be for writers and editors to re-read a piece about women politicians and consider what they might change if they were instead writing about a man. If it is jarring or sounds unusual, then think about why that might be the case and what can be done to remedy it so the article is less gendered. For blatant instances, some institutional reform is needed, such as a media code of conduct that condemns and combats sexist imagery, language and practices. We would suggest that the Parliamentary Press Gallery needs to draw up its own Code of Conduct, designed to facilitate the principles outlined in the broader parliamentary Code of Conduct cited above, including by committing to exposing and condemning unacceptable behaviour wherever practicable. In addition, the Australian Press Council could usefully draw up Advisory Guidelines, as it has in other cases, that address the reporting of accusations of sexist bullying and sexual harassment in Parliament and elsewhere.⁹⁶

Such changes need to be implemented across the board,⁹⁷ as a sexist print media landscape will hinder any progress towards making Parliament a safer workplace for all women. Reforms within Parliament are essential but they need to be backed up by broader cultural and institutional change outside of Parliament as well.

⁹⁶ For other cases, see, for example, Australian Press Council Advisory Guidelines on 'Reporting on people with diverse sexual orientation, gender identity, and sex characteristics', 'Reporting Elections' and the 'Family and domestic violence reporting advisory guideline'. Accessed at: <https://www.presscouncil.org.au/advisory-guidelines/>

⁹⁷ Blair Williams, 'It's a Man's World at the Top: Gendered Media Representations of Julia Gillard and Helen Clark'. *Feminist Media Studies*, 2020, pp. 1-20; Blair Williams, 'The Murdoch Presses: Representation of Masculinity and Femininity in Leadership', in Zareh Ghazarian and Katrina Lee-Koo (eds), *Gender and Australian Political Leadership*. Sydney: NewSouth, 2021, pp. 182-92.

‘Melodrama, Fisticuffs and Generally Aberrant Behaviour’: Gender, Norms of Behaviour and Workplace Culture in the New Zealand Parliament*

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Abstract In 2018, following a series of public reports alleging bullying by politicians, a review of the workplace culture of the New Zealand Parliament was commissioned. The Francis Review, released in May 2019, uncovered serious issues including systemic bullying and harassment. In the wake of the review and its 85 recommendations, a voluntary code of conduct for Members of Parliament, staff and visitors was introduced in July 2020; negotiations around an Independent Commission for Parliamentary Conduct are still ongoing. These recent developments must be situated in the context of a broader, long-running debate on standards of parliamentary behaviour and, particularly since the advent of mixed-member proportional (MMP) electoral system in the 1990s, what an inclusive and representative House should look and act like. This article maps how gendered norms of parliamentary behaviour have been established and challenged in the New Zealand Parliament.

INTRODUCTION

Parliaments are sites that have been designed for a homogenous group of people—notably men who are not primary caregivers. As diversity has become a goal in representation—and, increasingly, a reality—the image of the typical parliamentarian is changing. Hypermasculinity, however, remains the norm, and conforming to this

norm is rewarded, creating risks for 'space invaders'.¹ Renewed global attention to the issue of violence against women in politics has highlighted these enduring risks.²

Practitioners and academics have sought to reframe the idea of parliaments, understanding them as (gendered) workplaces.³ A key goal of this work is changing parliamentary workplace cultures to make them safer spaces for women and groups who sit outside the traditional norm. For these groups, parliaments are often experienced as hostile workplaces, and this contributes to issues in attracting and maintaining a diverse workforce. Yet these cultures have proven resistant to change.

In 2018, the New Zealand Parliament was at the centre of a series of scandals relating to alleged bullying by politicians. Following these reports, an external independent review into bullying and harassment of parliamentary staff was commissioned. Released in May 2019, the Francis Review found evidence of systemic issues with bullying and harassment within Parliament, with the author noting that 'Parliament as a workplace does exhibit some of the commonly cited elements of workplace toxicity'.⁴ The Review found unconscious bias and sexist behaviour were common issues, with incidents, including serious incidents, of sexual harassment and sexual violence also reported.⁵

While the Review focused on parliamentary staff, bullying and harassment of Members of Parliament (MPs), especially women, was another ongoing issue. A survey carried out in 2018 by the Commonwealth Women Parliamentarians (CWP) Group showed that sexism, harassment and violence, particularly psychological violence, against New Zealand women MPs was widespread.⁶ Following the results, the CWP co-chairs

¹ Nirmal Puwar, *Space Invaders: Race, Gender and Bodies Out of Place*. Oxford and New York: Berg, 2004; Mona Lena Krook, 'Westminster Too: On Sexual Harassment in British Politics'. *Political Quarterly* 89(1) 2018, pp. 65-72.

² See for example Mona Lena Krook, 'Violence against Women in Politics'. *Journal of Democracy* 28(1) 2017, pp. 74-88.

³ See Sonia Palmieri, *Gender-Sensitive Parliaments: A Global Review of Good Practice*. Geneva: Inter-Parliamentary Union, 2011; Josefina Erikson and Celia Josefsson, 'The Parliament as a Gendered Workplace: How to Research Legislators' (UN)Equal Opportunities to Represent'. *Parliamentary Affairs* 2020, doi:10.1093/pa/gsaa049.

⁴ Debbie Francis, *Bullying and Harassment in the New Zealand Parliamentary Workplace*, External Independent Review, May 2019, p. 35.

⁵ Francis, *Bullying and Harassment*.

⁶ Louisa Wall and Jo Hayes, 'Sexism, Harassment and Violence against Women Parliamentarians in New Zealand'. *The Parliamentarian* 2 2019, 158-160.

argued: ‘Such behaviour must no longer be viewed as “just the price to be paid” for political involvement. It is the duty of political actors, men and women, and of Parliaments as institutions to set the right examples’.⁷

Of the systemic issues with bullying and harassment in the New Zealand Parliament uncovered in the Francis Review, the author noted: ‘A core perceived problem is low accountability, particularly for Members, who face few sanctions for harmful behaviour’.⁸ The Review’s 85 recommendations included the creation of a parliamentary code of conduct, as well as an independent commission for parliamentary conduct. A voluntary code for MPs, staff and visitors was introduced in July 2020. Negotiations around an Independent Commission for Parliamentary Conduct, however, were less successful.

This article seeks to put these recent developments in New Zealand in the context of a broader, long-running debate on standards of parliamentary behaviour and what a representative House should look and act like. New Zealand has often been at the forefront of diversity and equality in political participation and representation.⁹ The mixed-member proportional (MMP) electoral system, introduced in the 1990s, was believed to be a means to creating a more diverse, and more collegial, Parliament. Yet even as diversity has greatly increased, hyper-masculinised norms of parliamentary behaviour have proven sticky. This was acknowledged by Prime Minister Jacinda Ardern on the 125th anniversary of women’s suffrage:

Our young women may no longer question whether society will accept them in Parliament, but they may very well question whether Parliament is something they will accept, if it's where they want to be. This is not an attractive place of work, and I would argue that for both men and women. Measures of success aren't based on how many constituents you've helped but on how many scalps you've claimed ... It's a Westminster system, Mr Speaker, as you well know, and it's robust, but how many find it an

⁷ Wall and Hayes, ‘Sexism, Harassment and Violence’, p. 160.

⁸ Francis, *Bullying and Harassment*, p. 7.

⁹ Jennifer Curtin, ‘New Zealand: A Country of Firsts in Women’s Political Rights’, in Susan Franceschet, Mona Lena Krook and Netina Tan (eds), *The Palgrave Handbook of Women’s Political Rights*. London: Palgrave Macmillan, 2019, pp. 129-142.

appealing career choice? But we need it to be, and not just for women but for people from all walks of life.¹⁰

Using the idea of Parliament as a gendered workplace, this article seeks to explore the evolution of parliamentary norms of behaviour over time. Two key mechanisms to change behavioural norms—electoral reform and the introduction of a code of conduct—are examined. While electoral reform has greatly increased diversity in the New Zealand Parliament, it has been less than transformative in changing parliamentary norms. A code of conduct is a significant, and long-awaited, step for the New Zealand Parliament in acknowledging its responsibilities as a workplace, yet the particular code introduced in 2020—voluntary, with no independent enforcement mechanisms—will have a limited impact on norms of behaviour.

PARLIAMENT AS A WORKPLACE

Gender scholars and practitioners have developed important frameworks to understand Parliament as a (gendered) workplace. A 2011 report from the Inter-Parliamentary Union (IPU) developed an agenda on gender sensitive parliaments (GSP) and initiated a shift in global parliamentary norms.¹¹ As Sarah Childs and Sonia Palmieri define it: ‘A GSP values and prioritises gender equality as a social, economic and political objective and reorients and transforms a parliament’s institutional culture, processes and practices, and outputs towards these objectives’.¹² Changing workplace culture is a core part of creating a gender sensitive Parliament. In her work on the UK House of Commons, Childs expands on this approach to set out a framework for diversity-sensitive parliaments, noting: ‘For a Parliament to be truly inclusive, attention to diverse exclusions and to intersectionality and within-group differences is necessary’.¹³

¹⁰ Jacinda Ardern, New Zealand Parliament, *Parliamentary Debates*, House of Representatives, 19 September 2018, p. 6771.

¹¹ Palmieri, *Gender-Sensitive Parliaments*.

¹² Sarah Childs and Sonia Palmieri, ‘Gender Sensitive Parliaments: Feminizing Formal Political Institutions’, in Marian Sawyer, Lee Ann Banaszak, Jacqui True and Johanna Kantola (eds), *Handbook of Feminist Governance*. Cheltenham: Edward Elgar, forthcoming.

¹³ Sarah Childs, *Diversity Sensitive Parliaments: Parliamentary Practice in Comparison, A Briefing*, University of Bristol, March 2017.

More recently, scholars have put forward a ‘gendered workplace approach’ to studying parliaments.¹⁴ This approach draws on the depth of feminist scholarship on workplaces as gendered spaces, but acknowledges the distinctiveness of parliaments as a type of workplace. Some features of this distinctiveness—such as MPs being primarily accountable to their electorates, rather than to a manager within the workplace, and being responsible for hiring, supervising, and firing their own staff, often without any management training or experience—exacerbate risks including bullying and harassment.¹⁵ Yet the uniqueness of Parliament as a workplace is also frequently used as an excuse to resist changes to bring it more into line with workplace norms.¹⁶

Electoral reform is a key mechanism for increasing diversity in representation. The impact of electoral systems on the representation of women and marginalised groups is well-known,¹⁷ with proportional systems seen as more conducive to women’s representation than majoritarian systems. Yet the presence of women and marginalised groups in legislatures does not guarantee their ability to effect political change; broader cultural change is required to create a more inclusive and representative politics. This is what Jennifer Curtin termed the ‘diversity dilemma’, where an increasingly heterogenous Parliament remains shaped by gendered and racialised rules and norms.¹⁸

A code of conduct is a set of rules to guide behaviour and shape norms within an institution or workplace. All conduct within a group or organisation is defined by established practices, and shaped by (often unspoken and informal) rules and norms. Codes of conduct can function as a formal articulation of rules of behaviour. A code of conduct, however, cannot be just a code: how it is developed; to what extent it is seen as legitimate and binding; who is responsible for enforcing it; the consequences of non-

¹⁴ See Erikson and Josefsson, ‘The Parliament as a Gendered Workplace’.

¹⁵ Inter-Parliamentary Union, *Sexism, Harassment and Violence against Women Parliamentarians*. Geneva: Inter-Parliamentary Union, 2016; see also Krook, ‘Westminster Too’.

¹⁶ Francis, *Bullying and Harassment*.

¹⁷ See Wilma Rule and Joseph F. Zimmerman (eds), *Electoral Systems in Comparative Perspective: Their Impact on Women and Minorities*. Westport: Greenwood, 1994.

¹⁸ Elle Hunt, ‘Diversity Dilemma’: World’s Most Inclusive Parliament Still Faces Battle for Change’. *The Guardian*, 8 February 2021. Accessed at: <https://www.theguardian.com/world/2021/feb/08/diversity-dilemma-worlds-most-inclusive-parliament-still-faces-battle-for-change-new-zealand>

compliance; and the mechanisms for resolving disputes it contains, if any, are all important aspects of how it functions.¹⁹

The lack of independent accountability mechanisms is an important factor in enabling hostile workplace cultures.²⁰ Across the world, parliamentary ‘provisions that explicitly protect members against sexist remarks, sexual harassment and threats of violence from other members’ are rare.²¹ In neighbouring Australia, there have been calls for a code of conduct for Members of the federal Parliament since at least 1975.²² An all-party informal working group of parliamentarians drafted a proposed code of conduct in 1994, considered ‘an aspirational set of principles or values’ rather than an enforceable commitment.²³ The issue of a code of conduct was revived in 2008 after a number of scandals related to the behaviour of parliamentarians, and was part of the coalition agreement following the 2010 election.²⁴ More recently, allegations of misconduct in the Australian parliamentary workplace have led to renewed calls for a code of conduct.²⁵ Importantly, throughout these Australian debates, as in New Zealand, there has been entrenched resistance to enforceable and strict codes of conduct for parliamentarians.

¹⁹ Sonia Palmieri, ‘Feminist Institutionalism and Gender-Sensitive Parliaments: Relating Theory and Practice’, in Marian Sawer and Kerryn Baker (eds), *Gender Innovation in Political Science: New Norms, New Knowledge*. Cham: Palgrave, 2019, 173-194.

²⁰ See Wall and Hayes, ‘Sexism, Harassment and Violence’; Francis, *Bullying and Harassment*; IPU, *Sexism, Harassment and Violence*; Krook, ‘Westminster Too’.

²¹ IPU, *Sexism, Harassment and Violence*, p. 9.

²² Deirdre McKeown, *Codes of Conduct in Australian and Selected Overseas Parliaments*. Canberra: Commonwealth of Australia, 2012.

²³ Quoted in McKeown, *Codes of Conduct*, p. 6.

²⁴ McKeown, *Codes of Conduct*.

²⁵ Global Institute for Women’s Leadership, ‘Parliament as a Gendered Workplace: Towards a New Code of Conduct’. *Submission to the Independent Inquiry into Commonwealth Parliamentary Workplaces*. Canberra: The Australian National University, 2021.

ENCOURAGING INCLUSIVE PARLIAMENTARY CULTURE THROUGH ELECTORAL REFORM

Prior to the adoption of MMP,²⁶ New Zealand used a first-past-the-post (FPP) electoral system.²⁷ Inherited from the British colonial administration, FPP was the subject of protest, centred around disproportionality, in the late 1970s and early 1980s as minor parties grew in popularity. In both the 1978 and 1981 elections, the Labour Party won more overall votes, yet the National Party retained government. Labour began campaigning on electoral system reform in 1981, and after winning the 1984 election, set up a Royal Commission on the Electoral System. The Commission's report, released in 1986, recommended the adoption of MMP, a recommendation perceived as a 'radical conclusion' from a 'runaway commission'.²⁸ Though Labour and National were both unwilling to embark on substantial change to the voting system, effective lobbying from the Electoral Reform Coalition (ERC) forced both parties to commit to a referendum as a 1990 election promise.

The electoral system was changed in a two-step referendum. The initial non-binding referendum, on 19 September 1992, first asked if voters would like to retain FPP or change the system; 85 per cent elected to change the system. Secondly, it gave four alternative options.²⁹ Voters overwhelmingly chose MMP, which the Royal Commission had endorsed and the ERC had actively campaigned for. The subsequent referendum, held at the same time as the 1993 general election, was binding and gave voters the choice between FPP and MMP. The latter narrowly prevailed with 54 per cent of the vote.³⁰

²⁶ For more information about New Zealand's MMP system, see Jonathan Boston, Stephen Levine, Elizabeth McLeay and Nigel S. Roberts, *New Zealand Under MMP: A New Politics?* Auckland: Auckland University Press, 1996, pp. 23-4.

²⁷ There was a brief experiment with a two-round system from 1908 to 1912.

²⁸ Jack H. Nagel, 'What Political Scientists Can Learn from the 1993 Electoral Reform in New Zealand'. *PS: Political Science and Politics* 27(3) 1994, 525-529, p. 526; see also Royal Commission on the Electoral System, *Report of the Royal Commission on the Electoral System: Towards a Better Democracy*. Wellington: New Zealand Government, 1986; Jonathan Boston, 'Electoral Reform in New Zealand: The Report of the Royal Commission'. *Electoral Studies* 6(1) 1987, 105-114; Arend Lijphart, 'The Demise of the Last Westminster System? Comments on the Report of New Zealand's Royal Commission on the Electoral System'. *Electoral Studies* 6(2) 1987, 97-103.

²⁹ The options were MMP; single transferable vote (STV); supplementary member (SM); and preferential voting (PV).

³⁰ A third voting system referendum was held in conjunction with the 2011 general election, in which 56 per cent of voters elected to keep MMP.

Diversity in representation was a key concern in the electoral reform debates. Central to the commission's deliberations was the question of effective representation of Māori, minority and special interest groups. MMP was seen as enabling greater diversity in Parliament.³¹ Another focus was the creation of a more collegial and collaborative political culture. This was strongly related to the push for broader representation, as this style of politics was seen as more suitable to and reflective of an increasingly diverse political community. This was a popular goal: 'New Zealanders quite consciously wanted to move toward consensus government ... "Consensus" was the byword that summarized their aspirations for a more cooperative style of politics'.³² A shift away from the 'traditional' style of politics, and associated rules and norms, was a key part of this: 'in the Commission's view, a "better" democracy clearly means less Westminster-style democracy'.³³

The introduction of MMP had a significant effect on Parliament in the reduction of disproportionality and the entry of minor parties to Parliament—often in 'kingmaker' positions. Although the two traditional major parties, Labour and National, still dominate, until the 2020 election no party had won a majority of seats in the MMP era. This move towards coalition governments has been a notable shift.

MPP has prompted changes to the formal rules of Parliament. Former Speaker Margaret Wilson noted, 'the introduction of MMP in 1996 required a rethinking of the Standing Orders to govern this new form of Parliamentary representation'.³⁴ With minor parties a greater presence in the House, proportionality rules for question time, as well as select committees, were instituted. A 'no surprises' approach to parliamentary business was established, with a Business Committee on which minor and Opposition parties have representation, and which makes decisions based on consensus or near-unanimity.³⁵

³¹ Boston, 'Electoral Reform in New Zealand', p. 110.

³² Nagel, 'What Political Scientists Can Learn', p. 527.

³³ Lijphart, 'The Demise of the Last Westminster System?', p. 98.

³⁴ Margaret Wilson, 'Keeping Order and Fostering Decorum – a New Zealand Perspective'. Speech to Conference of Commonwealth Speakers and Presiding Officers, London, 3 January 2008.

³⁵ Wilson, 'Keeping Order and Fostering Decorum'; Rod Donald, 'MMP – Has it Delivered, Should it Continue?' *Representation* 35(1), 1998, 41-50.

The shift to MMP resulted in an immediate increase in the proportion of women in Parliament. Acknowledging a more diverse workforce, the parliamentary sitting calendar was adjusted to take school holidays into account.³⁶ This built on previous moves to make Parliament more family-friendly, including the establishment of a childcare centre on site in the early 1990s and lobbying by Ruth Richardson, as a mother of a newborn in the 1980s, for facilities close to the chamber for parents to feed and change babies.³⁷

New Zealand's progressive track record in terms of Māori representation, women's suffrage, and women's leadership was a point of significant pride even before MMP, and this legacy has in many ways been continued and extended. In 2018, Prime Minister Jacinda Ardern became only the second elected woman head of government to have a baby while in office. Under Speaker Trevor Mallard, there has been a concerted effort to make Parliament more 'family-friendly': actively encouraging, rather than merely allowing, the presence of babies in the chamber; establishing a policy of 'compassionate leave' for new parents, which does not affect proxy vote limits for parties; and building a children's playground for public use outside Parliament.³⁸

Not everything changed, however, in terms of parliamentary culture. Rod Donald, a key figure in the ERC who was later became co-leader of the Green Party and was elected as an MP, wrote in 1998 that hopes of 'a more consensual, less aggressive, more consultative and more co-operative parliament' were curtailed by the prevalence of political in-fighting and an unstable governing coalition. He claimed that 'MMP – the voting system – delivered but the politicians the voters chose to elect haven't'.³⁹

While the presence of women expanded under MMP in Parliament, Cabinet, and in senior leadership positions, experiences of women MPs in the post-MMP era show that sexist norms remain entrenched. Leading up to the 2020 election, several retiring women MPs from both the Government and Opposition called out instances of sexism they faced in their parliamentary careers, indicating this was a major reason for leaving

³⁶ Wilson, 'Keeping Order and Fostering Decorum'.

³⁷ John E. Martin, *The House: New Zealand's House of Representatives 1854-2004*. Palmerston North: Dunmore Press, 2004, p. 300.

³⁸ Sonia Palmieri and Kerryn Baker, 'Localising Global Norms: The Case of Family-Friendly Parliaments', *Parliamentary Affairs* 2020, doi:10.1093/pa/gsaa050.

³⁹ Donald, 'MMP', p. 41. Donald was first elected in 1996 as an Alliance MP.

politics. In her valedictory speech, National MP Sarah Dowie directly called out the media for what she described as their enabling of harassment from a fellow MP:

When a predator is able to manipulate the media for his agenda and the media is directly party to it, it is the media fraternity that needs to audit themselves as to their ethics and their conscious peddling of sexism and patriarchy. If it takes me to be New Zealand's scarlet woman to highlight this, then so be it.⁴⁰

Labour MP and former Minister Clare Curran, on her retirement from Parliament, spoke of an incident in which a National MP posed for a photo at a party conference with a toilet seat with a picture of Curran on it; the photo was then posted on Facebook:

I was so shocked when I saw it I have never been able to speak of it publicly because I felt embarrassed. I still feel quite traumatised by it ... I imagine whether they have used it or not and it's a sense of humiliation and weirdness. There's something sick about that. People who are prepared to do that ... What else are they prepared to do? They were literally encouraging people to piss on me.

She also described consistent harassment from right-wing bloggers and media commentators, and stated she believed the negative media attention she received was at least in part due to gender.⁴¹

These forms of sexism perpetrated outside the House are reinforced by the robust, hypermasculine style of politics still privileged in the debating chamber. While politicians commonly view the chamber 'as an environment where MPs were psychologically tested and where vulnerabilities were preyed upon',⁴² this is seen as an aspect of parliamentary life that is impossible to change. In this way, the aspirations of the Royal Commission for a 'better' democracy seem unfulfilled.

⁴⁰ Sarah Dowie, New Zealand Parliament, *Parliamentary Debates*, House of Representatives, 29 July 2020, p. 20164.

⁴¹ Donna Chisholm, "'I Physically Felt Like I Was Going to Die': Clare Curran Opens Up on Politics, Toxicity and Trauma'. *The Spinoff*, 4 July 2020. Accessed at: <https://thespinoff.co.nz/politics/04-07-2020/clare-curran-interview-donna-chisholm/>

⁴² Palmieri and Baker, 'Localising Global Norms', p. 12.

CHANGING STANDARDS OF BEHAVIOUR THROUGH A CODE OF CONDUCT

In 1992—the year of the first electoral reform referendum—a bipartisan parliamentary group proposed a voluntary code of conduct, which included obligations ‘to conduct himself or herself at all times in the Chamber in a manner which will enhance public respect for Parliament’ and ‘to extend courtesy to other MPs and the public at all times within the precincts of Parliament’.⁴³ It is not clear to what extent this voluntary code was taken up, but it did not seem to have a demonstrable impact on the standard of parliamentary behaviour and appeared defunct by 1995.

In the next House, MP Peter Dunne—who had resigned from the Labour Party to establish a minor centrist party—proposed another voluntary code of conduct:

In 1995, as a result of appalling incidents of Parliamentary behaviour, I proposed MPs be invited to sign up to a voluntary Code of Conduct, governing their behaviour in the House It was widely rejected at the time as ‘prissy’ and trying to curtail the robust nature of Parliamentary debate. [Former Labour Prime Minister] David Lange was particularly vocal, dismissing it as Parliament’s equivalent of taking the teetotaler’s pledge.⁴⁴

While the code of conduct was not introduced, Dunne instead began compiling what was termed the ‘bad boys list’: ‘an annual list of Parliament’s worst behaved MPs each year, based on the number of times an MP had been thrown out of the Chamber or asked to withdraw and apologise for comments made in the course of debate’.⁴⁵

The ‘bad boys list’ did not always solely contain men, but it was noticeably gendered. No woman ever topped the list. Several male MPs made regular appearances on the list, including Trevor Mallard, Winston Peters, Nick Smith and Tau Henare. While the list generated publicity, it did not seem to act as a deterrent for named MPs. Dunne described Mallard and Smith as being ‘unfazed and unrepentant, saying being named

⁴³ Quoted in Christopher Finlayson, ‘A Code of Conduct for Members of Parliament’. *Victoria University of Wellington Law Review* 167 1998, pp. 167-190, p. 187.

⁴⁴ Peter Dunne, ‘From “Prissy” to Popular’, *Newsroom*, 31 July 2020. Accessed at: <https://www.newsroom.co.nz/from-prissy-to-popular>

⁴⁵ Dunne, ‘From “Prissy” to Popular’.

on the list so regularly simply proved how effective they were as MPs'.⁴⁶ The limitations of the list—with varying points allocated for removals from the House, and being asked to withdraw and apologise, but none for behaviour outside the debating chamber—also meant more obvious acts of 'bad' behaviour were left out. One notable instance was in 2007, when Mallard and Henare had a physical altercation in the corridor outside the house, with Mallard punching Henare in retaliation for an offensive comment made earlier in the House. Henare later commented that the House was 'a robust place where things are said that are edgy, but you don't expect to get punched for it'.⁴⁷

In 2009, Dunne stopped compiling the list, arguing it was less necessary with a change in parliamentary behaviour since Lockwood Smith had become Speaker. That year, however, he gave Mallard a 'lifetime achievement award' 'for services to melodrama, fisticuffs, and generally aberrant behaviour'.⁴⁸ Perhaps ironically, Mallard would become Speaker in 2017 and be responsible for implementing the recommendations of the Francis Review.

In 1997, following the advent of MMP, the Government Administration Committee of the House of Representatives undertook an inquiry into a possible code of conduct. The inquiry focused on the need for safeguards against bribery and corruption, but noted:

It could extend to the professional conduct and behaviour of Members. There exists a compelling case for work to be done in this area. Many new Members, when they enter Parliament (especially those that arrived in such large numbers following the last general election) expect there to be some form of job description. As there is none, many seek guidance in an ad hoc way concerning the norms and rules of conduct and behaviour that are appropriate in and outside the House.⁴⁹

⁴⁶ Dunne, 'From "Prissy" to Popular'.

⁴⁷ Quoted in 'Punch was "Stupid" – Mallard', *The Dominion Post*, 31 January 2009. Accessed at: <https://www.stuff.co.nz/national/politics/12723/Punch-was-stupid-Mallard>

⁴⁸ Claire Trevett, 'A Bit More Order, But Still Room for Some Good Insults'. *New Zealand Herald*, 23 December 2009. Accessed at: <https://www.nzherald.co.nz/nz/a-bit-more-order-but-still-room-for-some-good-insults/N774M727R4FDEKWCZVL4R33MZM/>

⁴⁹ Quoted in Finlayson, 'A Code of Conduct for Members of Parliament', pp. 173-174.

In 1998, lawyer Christopher Finlayson (who would later enter Parliament and become New Zealand's Attorney-General) wrote an article setting out a case for a code of conduct for Members of Parliament. The article again focused on the need for safeguards against bribery and corruption, but noted parliamentary behaviour as another issue:

The change to MMP was supposed to herald a new and kinder Parliament. If anything, the institution is held in lower regard than ever ... there are real questions about whether some MPs know what is expected of them and whether they need the guidance of a code of conduct to help them improve their performance. It is also a source of some regret that, when considering a code, one must also consider once again questions about courtesy and exercising restraint in and around the House. Including such matters in a code of conduct may make the code seem pompous and even pious but certain incidents which have occurred in the last 12 months would indicate they are necessary.⁵⁰

Following the 1999 election and the formation of a Labour Government in coalition with the Alliance Party, Labour MP Ross Robertson advocated a code of ethics for MPs, modelled on the code of the UK House of Commons.⁵¹

In 2007, four of the six minor parties represented in Parliament jointly drafted and signed a voluntary code of conduct, urging other parties to also sign.⁵² While voluntary, the parties noted their intention was to gain enough support for the code that it could eventually be included in the Standing Orders.⁵³ This new proposal came from a belief amongst the minor parties that the principles of MMP were not being respected—that is, a more cooperative and consultative politics was being set aside for the standard bipartisan struggle in the House. In a letter to the Speaker, the party leaders argued 'an MMP Parliament demands a standard of behaviour that allows all voices to be

⁵⁰ Finlayson, 'A Code of Conduct for Members of Parliament', p. 188.

⁵¹ Margaret Wilson, 'A Code of Conduct for Members of Parliament – is the Time Ever Right?' Speech to 38th Presiding Officers and Clerks Conference, Rarotonga, Cook Islands, 12 July 2007.

⁵² Transparency International New Zealand, *New Zealand National Integrity System Assessment – 2018 Update*. Wellington: Transparency International New Zealand, 2018; Wilson, 'A Code of Conduct for Members of Parliament'.

⁵³ Wilson, 'A Code of Conduct'.

heard'.⁵⁴ Interestingly, the minor parties proposed that individual MPs be allowed to sign up to the code of conduct discreetly, 'to protect them from any bullying at the hands of colleagues'.⁵⁵

As was the case with Dunne's 1995 proposal, the code of conduct was not supported by the major parties. The major concern put forward was the impact of the proposal on the quality and 'robustness' of parliamentary debate. Another objection was the potential of the code to be 'used politically'.⁵⁶ The Speaker at the time, Margaret Wilson, noted a formal code of conduct as a recurring issue, but believed it unlikely that one would be introduced: 'The New Zealand Parliament ... has a long tradition of resisting regulatory intrusions into matters that govern the working of Parliament and the conduct of members'.⁵⁷

For more than ten years, there was indeed little progress on introducing a code of conduct for the New Zealand Parliament. This changed in light of the renewed attention on Parliament as a workplace, and media attention on bullying and harassment allegations. In early 2019, the publication of the CWP survey findings on bullying, harassment and violence against women parliamentarians prompted renewed calls for a code of conduct.⁵⁸ A spokesperson from Transparency International New Zealand argued the political culture did not lend itself to an effective code of conduct: 'The culture of Parliament is such that the very behaviours that require the code are demonstrated by MPs who fail to see its necessity'.⁵⁹

The Francis Review argued that a 'Parliamentary Workplace Code of Conduct is a basic requirement',⁶⁰ and that the code of conduct should be a part of employment agreements. It went on to note that 'some Members view a code of conduct as

⁵⁴ Wilson, 'A Code of Conduct'.

⁵⁵ Dunne, 'From "Prissy" to Popular'.

⁵⁶ Wilson, 'A Code of Conduct'.

⁵⁷ Wilson, 'A Code of Conduct'.

⁵⁸ See Alison Mau, '#UsToo – What's the Fix for Parliament's Harassment Problem?' *Stuff*, 31 January 2019. Accessed at: <https://www.stuff.co.nz/national/politics/opinion/110299468/ustoo--whats-the-fix-for-parliaments-harassment-problem>

⁵⁹ Transparency International New Zealand, 'The Parliamentary Code of Conduct is a First Step, Much More is Needed'. Press Release, 30 July 2020. Accessed at: <https://www.scoop.co.nz/stories/PO2007/S00399/the-parliamentary-code-of-conduct-is-a-first-step-much-more-is-needed.htm>

⁶⁰ Francis, *Bullying and Harassment*, p. 67.

unnecessarily prescriptive or overly politically correct'.⁶¹ It also recommended an Independent Commission for Parliamentary Conduct be set up to act as a mechanism for complaints.

In July 2020, Speaker Trevor Mallard released a code of conduct, drafted by a cross-party group of MPs. The code of conduct included commitments to:

1. Show that bullying and harassment, including sexual harassment, are unacceptable
2. Speak up if we observe unacceptable behaviour
3. Use our position of power or influence to help others, and avoid harm
4. Act respectfully and professionally
5. Behave fairly and genuinely, treating others the way we would like to be treated
6. Encourage diverse perspectives, and the free and frank expressions of views
7. Foster an environment where people feel safe and valued'⁶²

The code was not mandatory, with parties signing up on a voluntary basis. An enforcement mechanism was not implemented with the code of conduct, given strong opposition from some parties.

NORM CHANGE AND POINTS OF RESISTANCE

Mapping how gendered norms of behaviour have been challenged in the New Zealand Parliament, there are obvious patterns of resistance from major parties. Neither major party wanted large-scale reform to the electoral system, but this reticence was overcome by an activist Royal Commission and effective lobbying and public awareness from pro-reform groups. Yet coalition politics has prompted discord as much as consensus, and the combativeness of parliamentary culture has continued undiminished despite the anticipated effects of reform.

⁶¹ Francis, *Bullying and Harassment*, p. 68.

⁶² Craig McCulloch, 'Mallard Releases Code of Conduct Following Bad Behaviour in Parliament'. *Radio New Zealand*, 24 July 2020. Accessed at: <https://www.rnz.co.nz/news/political/421956/mallard-releases-code-of-conduct-following-bad-behaviour-in-parliament>

Entrenched resistance to norm change is particularly noticeable in terms of the valorisation of the Westminster principle of ‘robust debate’, perceived to be a masculinised style of parliamentary discourse. This has previously been raised as problematic in the New Zealand context. Former Speaker Wilson noted in a speech:

It is fair to observe in the New Zealand Parliament interactions between Members in the House have always been robust. During the first session in 1854 a Member is reported as having ‘marched in with his hat on, defied the chairman, flung a Gazette on the table and declared the session was over’ and then marched around the chamber flourishing his umbrella and daring anyone to evict him. The history of the House of Representatives is full of instances of disorderly behaviour and attempts by Speakers to maintain a sense of decorum. It is also disconcerting to note how many of our Speakers suffered from stress and retired with ill-health.⁶³

Even following the Francis Review, it seems that little has changed. In February 2021, a commentator described new Assistant Speaker Jenny Salesa—a woman of Tongan descent—being ‘subjected to an extended barrage of points of order from four senior, male, National Party MPs ... They contradicted her, implied she was incompetent, even tried to gaslight her over the rules’. He went on to say:

Some would call it blood-sport, or a search for limits, or an attempt to permanently undermine the newcomer’s confidence and authority. When it is also male on female the label might go further ... [and] poor behaviour in the chamber is overwhelmingly the province of men.⁶⁴

In a context where MPs and major parties have historically shown fierce opposition to ‘regulatory intrusions’,⁶⁵ the introduction of a code of conduct is notable. This is a positive sign for ongoing campaigns to institute codes of conduct in similar parliamentary cultures, including the Australian Parliament. Yet the effectiveness of the code of conduct will be severely limited by its voluntary nature and by the absence of an independent accountability mechanism. Furthermore, changing political culture

⁶³ Wilson, ‘Keeping Order and Fostering Decorum’.

⁶⁴ Phil Smith, ‘Baptism of Fire for New Master’. *The House*, 27 February 2021. Accessed at: <https://www.rnz.co.nz/national/programmes/the-house/audio/2018785160/baptism-of-fire-for-new-master>

⁶⁵ Wilson, ‘A Code of Conduct’.

requires a ‘multifaceted response’,⁶⁶ and a code of conduct is just one tool among many; using it in isolation will further curtail its effectiveness. The experiences of Sarah Dowie and Clare Curran, among others, suggest that the consideration of Parliament as a workplace needs to be expanded, with the media, including bloggers, key actors in perpetrating—but also potentially preventing—harassment.

Despite significant shifts in relation to parliamentary workplace culture in recent years, there continues to be significant reluctance on the part of MPs to accept any changes perceived as affecting the nature of parliamentary debate. Even where issues of bullying and harassment, including sexual harassment, within Parliament are widely acknowledged—affecting and involving staff, MPs, and media—change within Parliament is still only accepted if it stops at the door of the House. Despite moves to bring parliamentary workplace culture more in line with other workplaces, including in zero-tolerance approaches to bullying and harassment, the principle of robust debate is still used as an excuse to stymie what are still perceived as ‘intrusions’ into parliamentary norms of behaviour. This aspect of political culture is a major barrier to the acceptance, and effectiveness, of a parliamentary code of conduct. Furthermore, it is a challenge to efforts to create a diverse, representative and inclusive Parliament. As Curran noted upon leaving politics:

People say, ‘It’s politics’. But is that really what politics is? Is that really what it should be – such a gladiatorial sport that scalps are counted and you measure success by whether or not you survived or whether you got someone’s scalp? That’s not the political system that I aspire to.⁶⁷

CONCLUSION

Despite significant changes over time—in demographics, in the representation of special interest groups, and in how representatives are elected and who they represent—there are enduring consistencies in New Zealand parliamentary culture. Among the most entrenched is the aggressive and adversarial style of political debate.

⁶⁶ Krook, ‘Westminster Too’.

⁶⁷ Chisholm, ‘I Physically Felt Like I Was Going to Die’.

This aspect of parliamentary life is perceived as implacable, even as it is recognised as a key barrier to the participation of under-represented groups in politics.

In this context, there is a significant burden on institutional reforms to effect cultural change and create a safer workplace for marginalised groups. While MMP has been a popular reform, and has substantially altered the demographics of Parliament as well as how governments are formed, its promise of a more inclusive and collegial style of politics has been largely unfulfilled. The 2018 CWP survey, the 2019 Francis Review, and the stories of former MPs have painted a picture of a parliamentary workplace that is hostile to ‘space invaders’: women, Māori people, people of colour, LGBTQI people, and many who experience multiple overlapping forms of discrimination. While a code of conduct may be a baseline requirement for change, a version that is voluntary and lacking an independent enforcement mechanism seems unlikely to make a substantive impact.

Successive efforts to improve the inclusivity of the New Zealand Parliament, and to create a safer workplace for women and marginalised groups, have largely failed in creating transformative, long-term change to parliamentary culture. A key absence is the political will to change the style and substance of political debate to move from the valorisation of ‘robust’ debate and a quest for ‘scalps’ to a more collegial, gender-sensitive and diversity-sensitive Parliament. New Zealand’s experience shows that even in relatively progressive political contexts—and even where there is a collective will from the electorate for a change to the style and substance of politics—this is easier said than done.

Book Reviews

Corruption in High Places: The Key Witness in the Justice Murphy Scandal Gives His Side of the Story, by Clarrie Briese. Australia: Noble Books, 2021, pp. 416, Paperback RRP \$34.95 ISBN: 9780645010404

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When Clarrie Briese became the chief magistrate of New South Wales in 1979, he was probably looking forward to a career of considerable professional achievement and quiet but substantial institutional reform. Michael Kirby, former High Court judge and head of the Australian Law Reform Commission, captured this side of his achievement when late in Briese's career he praised him: 'The growth in the quality and reputation of the magistracy in New South Wales has been a remarkable phenomenon—and you must take much credit'.

But the title of this memoir points to his career's particular importance. Briese played a central role as a whistleblower in controversies over the administration of justice in the 1980s. The Murphy scandal in particular, one of the most contentious and convoluted episodes in 1980s Australian politics, dominated his life and career for some years. As the journalist David Marr declared at the release of previously secret parliamentary commission files in 2017, the scandal only came to light because 'a new kind of man was appointed, New South Wales chief stipendiary magistrate Clarrie Briese, who is the real hero of all this. Not the press. Not the brave politicians who stood up to the pressure to keep quiet. Clarrie Briese is the real hero'.¹

¹ 'The Murphy Scandal', ABC TV Four Corners 20 November 2017. All other quotations in this review are from Briese's book.

After Brieese was appointed chief magistrate, the incumbent, Murray Farquhar, invited him to a small farewell dinner. Almost immediately afterwards, Brieese was confronted with evidence that three of the four other diners that night were corrupt.

One of his first tasks as the new chief magistrate was to report to Attorney-General Frank Walker on Farquhar's last case, which involved two drug-runners, Roy Cessna and Tim Milner. The pair had been represented by another of Brieese's dinner companions, Morgan Ryan, who was also the lawyer for Abe Saffron, Sydney's notorious Mr Sin. Ryan was developing a reputation as a Mr Fix-It for organised crime. Farquhar dealt with Cessna and Milner summarily rather than going to a full trial, which was only possible because Brieese's third dinner companion, police chief Merv Wood, had radically reduced the estimated value of the drugs involved. The two men received very light sentences as a direct result of the corrupt collaboration between the three diners.

However, it was his meeting with the fourth dinner companion – Lionel Murphy – which was most fateful for Brieese. A couple of years later when Ryan himself was arrested on two charges, his good friend Murphy used subtly coded language to try to convince Brieese to fix the case.

Brieese's suspicions about Murphy were confirmed in early 1984 by the dramatic publication of what came to be known as the 'Age tapes,' which were based on transcripts and summaries of illegally obtained phone taps by NSW police. Although initially anonymous, it soon emerged that the transcripts were of Ryan's phone calls, and that one of the people he spoke to was Murphy. When Brieese read the transcripts he not only realised the extent of the corruption around him but also had the disconcerting experience of reading Ryan and Murphy's observations about himself. He decided to speak up about Murphy's attempt to influence the Ryan trial. Judge Paul Flannery would later make a similar statement about his experience with Murphy.

Brieese's testimony set in train a complex series of events, all focused on Murphy. A Senate inquiry was convened in late March, and reported in August, split along party lines. A second inquiry was formed in September, and this four-person committee split three ways, with the chair, Labor's Michael Tate, and the Australian Democrat Senator Janine Haines concluding that Murphy, on the balance of probabilities, was guilty of misbehaviour sufficiently serious to warrant his removal from the bench.

On the basis of testimony given to the Senate committees by Brieese and Flannery, the federal director of public prosecutions, Ian Temby, decided to lay charges against Murphy. The first trial began in June 1985, and in July the jury found Murphy guilty of one charge but not the other. After Murphy won an appeal, a second trial began in April 1986. He was found not guilty, but only after controversially choosing to make an

unsworn statement—a procedure introduced to protect the illiterate—which allowed him to avoid cross-examination.

On the basis of that acquittal, Murphy wanted to return to the High Court, but several of his fellow judges resisted. To resolve the deadlock, a parliamentary inquiry began looking at allegations of misbehaviour against Murphy, but the process was aborted when he was diagnosed with cancer. All the inquiry documents were locked away for thirty years.

Murphy's approaches to Briese were relatively indirect and light-touch. 'Now, what about my little mate?' is the most widely quoted of his remarks. When a District Court judge, John Foord, sought to influence Briese, he was direct and heavy-handed: 'Neville' (presumably Premier Neville Wran) 'wants something done about Morgan Ryan' were his opening words. Foord was charged with trying to pervert the course of justice but found not guilty. (In what might be seen as poetic justice, he resigned from the bench in September 1986 after criminology professor Tony Vinson documented a pattern of Foord giving lenient sentences to Ryan's drug clients.)

Briese's testimony against Murphy earned him the wrath of Wran, whose rhetoric against the *Age* tapes and Briese became increasingly reckless. Having begun by calling the police operation 'the most illicit, illegal and despicable affair in Australian history', he soon declared that 'We're heading in the direction of McCarthyism, of Germany in the thirties'.

After Briese's evidence to the second Senate committee, Wran redoubled his attacks. Brieses's evidence 'raises grave questions about him, his conduct and his future', he said. 'Obviously a very large question must now be hanging over him and his position as chief magistrate'. Even though Briese and his family were Labor supporters, Wran speculated about connections between him and the Liberals.

Wran delivered another barrage of invective in April 1986, saying he would like to sack Briese but didn't have the power under the *Local Courts Act* of 1982. This brought substantial blowback, however. The Magistrates Institute of NSW immediately defended Briese, as did Labor's federal Attorney-General Lionel Bowen and, in a joint letter to Wran, several justices of the NSW Supreme Court. This was Wran's last rhetorical assault on the chief magistrate before he retired as Premier three months later.

Wran's attacks would undoubtedly have affected Briese's view of the Premier, but his doubts dated much further back. In 1978, when Briese arrived back in Sydney after a period in Britain, fellow magistrate Kevin Waller described to him what the magistrate thought was a miscarriage of justice. The previous year, Murray Farquhar had directed

that rugby league chief Kevin Humphries be let off a charge of embezzlement, ostensibly on the orders of the Premier. One day, said Waller, Wran and Farquhar will go to jail.

The Humphries case became famous five years later when a *Four Corners* investigation led to a royal commission. Although it exonerated Wran, the commission recommended that Farquhar and Humphries should be charged. Both men were found guilty. Most of the telling testimony at the commission came from magistrates, several of whom—like Waller—had believed for some years that Wran and Farquhar had behaved corruptly.

For Briese and others, Wran's resentment at the magistrates' testimony explained why the *Local Courts Act* of 1982, which they saw as crucial to the independence of the judiciary, was not enacted until 1985.

When Briese became chief magistrate, Farquhar had asked mysteriously whether he would be willing to do favours for the Premier and indicated that such requests would come through Ryan. Briese very quickly suspected that Farquhar and Ryan were corrupt, but seems to have taken them at their word when they talked of their closeness to Wran.

Over time, Briese's view of Wran seems to have hardened. In *Corruption in High Places*, he says that he, along with Wran's successor Barrie Unsworth, and investigative journalist Bob Bottom, 'came to suspect that Wran himself was part of the problem of corruption in NSW, and for that reason was not interested in a conclusion'.

Nor was Briese alone in his suspicions. Long after the Murphy trials were over, he and Flannery became friends. Later they lunched regularly with Waller and former prosecutor Darcy Cluff, the prosecutor in the Humphreys case, who was deeply frustrated that the case had not been heard on its merits. Another prosecutor whose sense of professionalism and integrity had been damaged—in his case during the Cessna–Milner hearing—was Wayne Evans. It is easy to imagine such a group, all with strong reasons for their attitudes, nursing their sense of injustice and speculating about the links between their enemies.

When Briese's book was published in March this year, some accompanying news stories concentrated on its new revelations. The *Sydney Morning Herald* headline was 'Bombshell corruption claim about former Premier Neville Wran'.

In fact, these revelations, far from being the most interesting part of the book, are the weakest. They are unsubstantiated accounts of trivial events into which Briese reads far too much. For example, it quotes Evans as seeing Wran in the car park behind the courts the day of the 1977 Humphrey hearing. Even if this is true, it proves nothing. If

Wran had fixed the case through Farquhar, why would he risk being seen near the courts when he could do nothing to affect the outcome?

Claims such as this owe much to the shared siege mentality of Briese and his colleagues who bristled against the miscarriages of justice they had seen. Briese the magistrate would see how far short these claims fall of being convincing evidence.

This book does not substantially further the debate about whether Wran was corrupt. It does provide convincing examples of how badly Wran acted towards Briese and through these scandals involving the administration of justice. It demonstrates in fine detail how Briese acted with principle, and gave honest evidence against Murphy and Foord, when he had nothing to gain and much to lose by doing so. It is a valuable memoir of an important and dramatic period in state and national judicial politics.

The Brilliant Boy: Doc Evatt and the Great Australian Dissent, by Gideon Haigh. Sydney: Simon and Schuster, 2021, pp. 384, Hardcover RRP \$39.99 ISBN: 9781760856113

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In death as in life, Herbert Vere Evatt is a controversial figure. He espoused lofty ideals but personally often fell far short of them. Evatt was capable of overarching achievements and parochial pettiness. The fearless defender of human rights had scant regard for those of his colleagues and staff. Evatt championed grand visions of a new and fairer international order through the United Nations, but his achievements in San Francisco were marred by the resentment his subsequent obstreperous behaviour generated. There was a positive side to Evatt—the brilliant polymath, the man of letters, patron of modern art and lover of jazz—but he could also be a devious, disloyal bully. He championed the working class in politics but was an egotistical careerist. On the High Court, Evatt produced some memorable judgements but at other times lapsed into inertia. He was a considerable legal scholar and historian. *Australian Labour Leader*, his biography of WA Holman, remains a classic work, but, like so much else about Evatt, it has its quirky lapses. The admirable side of Evatt has to a large extent been overshadowed by his disastrous term as federal Leader of the Opposition, during which he was instrumental in causing the great Labor split of the 1950s that kept the Party in the wilderness until 1972.

Gideon Haigh aims to restore Evatt's reputation, concentrating mainly on his legal and scholarly career, with the less successful years in federal politics being treated peripherally. He does not gloss over Evatt's failings, but the overall account is favourable, perhaps too much so. Many would, for example, question Haigh's sweeping generalisation that in the 1930s 'no Australian leading the life of the mind was more brilliant, ambitious and ubiquitous' (p. 341).

Haigh uses an unusual narrative technique, weaving his account of Evatt around his role in the legal consequences of the tragic death in 1937 of seven-year-old Max

Chester, the son of poor Jewish-Polish immigrants living in Sydney's eastern suburbs and the 'brilliant boy' of the title. Council workers had dug a deep ditch near Max's home which filled with rainwater. They did not fence it off as a safety precaution. Max was playing nearby, fell in and drowned. His mother Golda, who sighted the body, was understandably traumatised. The Chesters' local State MLA was Abe Landa, whose family were Jewish immigrants from Belfast. Landa was a solicitor and agreed to assist the Chesters. They sued Waverley Council for damages as Golda Chester had suffered severe 'nervous shock' as a result of Council's negligence. The case reached the High Court on appeal in 1939. A majority decided against the Chesters. However, Evatt wrote a forceful, compassionate and compelling dissenting opinion: 'If it did not carry the day, Evatt's dissent in Chester has enjoyed an after-life of critical acclaim' (pp. 291-2). This is Evatt the dissenting voice at his finest. Much of the rest of the book is a conventional biography of Evatt up to his election as a Federal MP in 1940.

A serious difficulty with Haigh's book is that it does not have an index or, more importantly, any references, thus making it impossible to know what sources he bases his account and analysis on. There is a bibliography, though that has problems: the selected list of Evatt's works does not include *The King and his Dominion Governors*, arguably his most significant book, although it is mentioned a number of times in the text.

There are a number of factual errors and questionable statements throughout the book. As an example, Haigh's account of Evatt's appointment as Chief Justice of NSW in 1960 is flawed. As throughout the book, Haigh overestimates the importance of Abe Landa, relying uncritically, it seems, on Landa's own version of events. Landa's claim to 'at least joint authorship' of the idea of appointing Evatt is not supported by any evidence. He was not, as claimed, a 'powerful' figure in the Labor Government. Landa was not the only non-Catholic in the Heffron Cabinet—there were six others. Bill McKell was succeeded by Jim McGirr and not Joe Cahill. Haigh quotes Arthur Calwell's claim, again unsupported by evidence, that Evatt's appointment was a quid pro quo for McKell's appointment as Governor-General. Chifley appointed McKell in 1947 as a statement of national identity. He was in no way doing the NSW ALP a favour—quite the reverse, as McGirr proved to be a disastrous Premier. To claim that 13 years later the Federal Party was able to call in a debt is simply not credible. The reality is that Federal Labor put pressure on NSW Premier Bob Heffron to appoint Evatt, by now an electoral liability, as a way of painlessly removing him. Heffron, always inclined to the path of least resistance, agreed.

In his conclusion, Haigh talks of 'the greatness of a forgotten Australian'. Haigh's positive portrayal of Evatt and his now under-valued early achievements is a useful

corrective. However, in this reviewer's opinion, 'greatness' always narrowly eluded him.

